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ABSTRACT

Prepared originally (1958) as a report to a commission on the rights, privileges, and responsibilities of the American Indian, this document has been enlarged and updated to cover national Indian policy from the early 1900's to present (1964). For the period to 1929, information gathered from annual reports, the Meriam report, Assistant Commissioner Meritt's recommendations, Secretary Wilbur's outline, and the Rhoads' memoranda is provided in relationship to health, education, welfare, community life, land, resource management, employment, duration of Federal supervision, and Bureau-Congressional relations. Also discussed are th Rhoads-Scattergood Administration (1929-33), The "New Deal" for the Indians (1933-45) in terms of acceptance and Congressional rejection, Commissioner Brophy's administration (1945-47), the termination controversy (1953-61), the 1961 Task Force Report, and Alaskan Native affairs. (LS)

ED 060978

INDIAN AFFAIRS

NO. 1

A Study of the Changes in Policy of the United States Toward Indians

S. LYMAN TYLER

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PREFACE

This work was originally prepared as a report to the Commission on the rights, privileges, and responsibilities of the American Indian in 1958.

It is now brought up to date to appear as one part of an Indian Affairs series to be issued by the Institute of American Indian Studies at Brigham Young University.

Chapters VIII and IX are largely the work of Reid G. Hansen, a research assistant.

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I. GENERAL INTRODUCTION

A. The Nature of Indian Policy

Actually it is necessary to determine what we mean by policy before we proceed to an examination of it. It is suggested that there are three policy levels to be considered. The first consists of basic ideas that have influenced the actions of the United States toward Indians from the beginning of our history; the second would include the guiding principles adopted and pursued by the government at a given time; and the third would include the rules laid down by Bureau officials to put the guiding principles into effect. The latter is sometimes referred to as "management policy."

This survey considers chiefly first and second level policy, or basic ideas and guiding principles that have been followed in our relations with Indian tribes and Indians individually during our history. Management policy is referred to only as necessary to make valid judgments in relation to the evaluation of policy or to determine its effect on the object of Indian policy, the Indian people.

Indian policy has historically been influenced by each of the three branches of government: legislative, executive, and judicial. Although policy changes may be officially effected through laws originating in Congress, the executive branch may and does strongly influence policy through the President's constitutional charge to "give to the Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; . . . ." For the first few decades of our national existence the presidents expressed themselves often and rather fully in regard to Indian affairs. More recently executive opinion has tended to be expressed through the Secretary of the Interior or the Commissioner of Indian Affairs.

The federal judiciary, and particularly the Supreme Court, has also influenced policy by its interpretation of cases in a manner normally without prejudice to the Indian. The executive branch, knowing well the attitude of the Supreme Court, has usually tended to avoid recommending to Congress measures they know will not meet the challenge of the court. The philosophy of the court has also influenced congressional consideration of measures supported by local interests that would be prejudicial to the Indians.

Although the executive branch and the judiciary do influence legislation through the system of checks and balances mentioned above, it is finally the responsibility of Congress to enact the measures that become the laws which the President, through the Department of the Interior and the Bureau of Indian Affairs, is by the Constitution and by his personal oath bound to see "faithfully executed."

Although we agree that guiding principles or top level policy may be influenced currently by all three of the branches of the national government, it is also necessary to remember that some policies that affect the operation of the Bureau today have grown out of laws passed by Congress during the past century. The dead hand of time rests heavily upon governmental agencies of long standing. Change occurs slowly, and sometimes when it appears that a change has been effected it is discovered that practices are still being followed that are diametrically opposed to the policy then in vogue. Even a policy change as far-reaching as the Indian Reorganization Act did not repeal all former laws having to do with Indian affairs.

One of the basic ideas that seems to have influenced relations with the Indians almost from the first European contact is that European culture and religion are superior to or more advanced than the culture and religion of the American Indian. Given this belief, the European has never quite been able to understand why it should take the Indians so long to give up their way of life and adopt that of the European.

When Englishmen and their Indian neighbors discovered in the seventeenth century that they were going to have to learn to put up with one another, each gradually developed methods of negotiating that seemed the most profitable to them. The Indians learned during the Indian wars that the Englishmen had come to stay. The English learned that negotiating for land was often better than fighting for it.

It is essential to remember that, with some exceptions as usual, from 1789 to the reservation period the United States tended to negotiate with Indian tribes as with foreign although dependent nations. As such the Indians were allowed to control their internal affairs almost entirely. Even in their external relationships they were allowed much freedom of action.

During this period the maintenance of law and order in Indian country was largely the responsibility of the Indian tribes, only very limited funds were provided by the federal government for the civilization or support of Indians, and education was left almost entirely to religious and philanthropic groups. Indian response to efforts to persuade them to give up warfare and the chase as a means of livelihood and to depend completely on agriculture had been disappointing.

Actually discussion of assimilation, removal, allotment, the establishment of reservations (or blocks of Indian land entirely surrounded by non-Indian land), and the extension of state laws over tribes that might remain within established states has occurred intermittently throughout the history of relations between the United States and the Indian tribes. One of these might be stressed more strongly in a given period than another or might be referred to as policy for a time, but the other facets of Indian relations continued to exist and to be used more or less extensively in different periods.

As examples, (1) A policy akin to removal was effected by royal proclamation after the French and Indian War. This idea prevailed to be re-emphasized by Jefferson in 1803, adopted by Monroe two decades later, and given teeth by Andrew Jackson during his administration. It continued to be used intermittently. In the 1880's the people of the state of Colorado used the Meeker Massacre (1879) as a pretext for having the Ute Indians removed almost entirely from the western third of that state into Utah. Today's policies lead to the removal of Indians from their reservations and encourage them to take their place in non-Indian society. The terms currently used are "relocation" and "termination" rather than "removal."

(2) Although the attempt to establish reserves for the Indians of California beginning in 1853 is often referred to as the beginning of the reservation era, actually from the time lands were first established for Indian tribes entirely surrounded by lands held by non-Indians, we had reservations. Examples are the lands reserved for the Pennobscot and Passamaquody in Maine and the Iroquois Confederation of New York. The need for reservations for the Indians of Alaska is a contemporary problem, and the reservation system is of course still with us.

(3) J.P. Kinney, in his study of Indian land tenure in America, finds references to allotment throughout the period from 1633 to the beginning of what we call the Allotment Period in 1887. Actually by the time the Indian Citizenship Act was passed in 1924, two-thirds of the Indians of the United States were already citizens. The idea of citizenship for Indians had long been closely connected with the acceptance of a tract of land by an individual Indian or Indian family. Allotment and termination have much in common.

(4) During the 1820's it became apparent that some solution must be found to the difficulties between the Five Civilized Tribes and the southern states in which they resided. In 1829, Georgia, Alabama, and Mississippi stood ready to extend state sovereignty over Indian lands. In his message to Congress December 8, 1829, President Jackson stressed the impossibility of

maintaining two sovereignties within a state and suggested removal as a means of allowing the Indians to continue to govern themselves. Just a hundred years later in the 1929 report of the Board of Indian Commissioners we read that the "annals of federal Indian administration disclose a curious timidity on the part of Congress and the Indian Bureau whenever the question of law enforcement on reservations has been raised." Here it was suggested that Indians should be placed under the same laws as their non-Indian neighbors. Some thirty years later congressional and Bureau timidity on this subject still exists.

(5) The English colonies, and later the United States, were interested in, or gave lip-service to, the idea of Indian assimilation. As President Jackson pointed out in 1829, however, we had often actually followed a working policy that brought about just the opposite results. When our Indian policy is spoken of as a complete failure from 1789 to the time the commissioner expressing himself on the subject took office, we must remember that it is being judged after the fact and in the light of contemporary thinking on Indian policy. Actually our Indian policy has frequently achieved what the policy-makers wanted most from it at a given time. It might be said that some of our short-range policies were successful, but that our long-range goal, assimilation, is still far from being fully realized.

By the early 1920's three of the most heralded of policy changes, while they had resulted in the accomplishment of certain immediate goals, had been discontinued as failures in achieving integration of Indians into non-Indian society.

The Indian Intercourse Act of 1834, which looked toward the concentration of Indians in "Indian Country" west of the Mississippi and the barring of unauthorized non-Indians from encroachment on their lands. gave way to the Reservation System in the 1850's. Pressure to break up the tribal estates and individualize Indian land-holding developed in the 1880's and was formalized by the Allotment Act of 1887. The excesses of the Force-Patent period from 1917 to 1920 finally convinced the administrators that the allotment policy, as it had been applied, had not accomplished the goals foreseen in the 1880's. The result was a demand for reform in the administration of Indian affairs.

The refusal of the United States to adequately protect Indians in their rights against non-Indians played an important part in the failure of the concentration policy, the reservation policy, and the allotment policy. During each of the three periods mentioned, Congress, time after time, responded to local non-Indian voters to the detriment of the Indians.

B. The Role of Congress

Studies of congressional interest in Indian bills as indicated by voting patterns tend to divide broadly between east and west, with exceptions appearing in eastern states where there are significant Indian populations, and further exceptions in particular states in the West when a bill appears that has significant local political interest. In the past the non-Indian vote has tended to be of more local political significance than the Indian vote. Recent efforts to get out the Indian vote could make their interests predominant over other groups interest in the use of the natural resources of some states.

Party politics has tended to have little significance in influencing voting on Indian bills. The chairmen and senior members of Indian affairs and appropriations committees have usually wielded a strong influence regardless of party, with the vote on controversial bills tending to line up along regional rather than party lines. Again, there is some indication that this pattern may not continue.[1] Indian bills often come up on the consent calendar where a single dissenting vote will kill the bill.

Members of the Indian Affairs Committees (before reorganization in 1946) and of the Indian subcommittees of the Committees on Interior and Insular Affairs have tended to be predominantly from the West. With the action on a bill being largely determined by committees, and with key committee members having strong influence on other members, it is possible to see to what extent decisions on Indian matters can depend on a very few members of Congress.

Since committee members are usually very busy men, there is a great deal of dependence on committee staffs for information, correspondence, drafting of reports and bills, and the general operation of committee affairs. Since committee members at times merely give approval to what is largely the work of the staff, the attitudes of senior staff members may be as significant as that of committee members. As an example, the role of Albert A. Grorud, head of the committee staff for several years and said to be opposed to the New Deal, to Collier, and to the Bureau,[2] would be an interesting study in the formation of Indian policy in itself.

Related to the idea of politics and minority groups, a little gem appears in an exchange between Helen Peterson, executive secretary of the National Congress of American Indians, and Senator Watkins, at the close of the hearings on the transfer of the Indian health program to the Public Health Service:[3]

Miss Peterson. I would like to suggest this, Mr. Chairman, if I might. Could there be any consideration of a proposal perhaps to pass this bill for, say, one State, on an experimental basis? I do know the San Carlos Apache Tribe favors this transfer. Certainly some of the medical men who have favored it come from the State of Arizona. Would there be any possibility of considering a bill like this on an experimental basis for, say, the State of Arizona, since there seems to be pretty complete agreement in favor of it; and then if it works, if it is helpful, if it really does accomplish the purposes which have been discussed here, perhaps it would be a very great service to demonstrate a pattern and show what could be done.

Only one further observation: The Indian people have seemed most afraid of their hospitals being closed, or the inability of the Public Health Service to get the money, which everyone says cannot be gotten from the Indian Bureau. Perhaps if the bill could guarantee that the appropriations could be made, and in sufficient additional amount, to undertake this job, that might relieve some of the fear. And certainly if it could be guaranteed to the Indian people that no hospitals would be closed, but that they would be operated with full staffing, that might relieve the fear.

Senator Watkins. That, of course, would be impossible, because they are having a hard time to get doctors now, you see, borrowing from Public Health. And someone said they are borrowing from the Army and Navy. We cannot guarantee that; we cannot even guarantee any of the hospitals, even military hospitals, are going to be properly staffed. They are having difficulty in getting nurses. That is one of the big problems of the day in serving our armed services, to get enough nurses.

Miss Peterson. It is hard, Senator, for us to understand. It really is.

If we have not been able to get enough money so that the Indian Bureau could do a decent job, what assurance is there, really, that somebody else could be able to do the same thing?

Senator Watkins. I will tell you why. You only have a few Indians in the United States compared to the 161 million people in the United States that are white. But the general public is interested in the Public Health Service. The white people, all the people, are interested in the Public Health

Service. It has a big backing of American people. It affects the States and so many citizens that it is always in a much preferred position to the Indian Service.

I find when I go before a committee [to discuss Indian Affairs] I get sympathetic consideration from a few members. But you take the members of the Appropriations Committee and of the Congress who are not from Indian States, they certainly do not look with sympathy upon our requests for more and more appropriations. They will get up and say, "Why not wipe it all out? Why not do it all now?"

When we had the first bill for determination of those Utah Indian lands, one of the very able men on the Appropriations Committee said, "Why don't you do it for all Indians right now? Put it in one bill. Why isn't this done for all right now?"

I had to go on and explain it.

You wonder why they do not understand, but they do not. There are not enough Indians that vote, and these people that maybe only have two or three hundred, which is true of a lot of States in the East, are not sympathetic. It becomes a more or less sectional problem. They are not interested in going ahead. But they are interested in the Public Health Service. That is why we think we will have a much better chance to get our money, to expand the service and do the things we want to do.

I think our objectives are all the same. We want to discharge our obligations to the Indians.

C. A Background to Reform, 1922 to 1928

In November of 1922 there gathered at the Pueblo of Santa Domingo representatives to an all-Pueblo council, advertised as the first such meeting since the revolt of the Pueblo Indians against the Spanish in 1680.[4] The purpose of this body was to raise a united voice in protest against the Bursum Bill: "An Act to quiet the title to lands within Pueblo Indian land grants...."

The protest of the Indians against this bill, which would have allowed non-Indians to gain title to lands within the Indian pueblos, echoed throughout the United States and many friends of the Indians picked up and strengthened the reverberations.

Although Secretary Fall and Senator Bursum called their critics propagandists[6] and the House Indian Affairs Committee branded their propaganda as "Insidious, untruthful, and malicious,"[7] the combined efforts of the Indian Rights Association, the newly-formed American Indian Defense Association, the Indian Welfare Committee of the General Federation of Women's Clubs, the editor of the New York Times, and the Indians themselves resulted in the defeat of the Bursum bill and the establishment of the Pueblo Lands Board as an impartial body to investigate the non-Indian land claims.

With this impetus the Indian reform movement began in earnest. Writing articles for such magazines as Sunset, The Survey, Current History, and The Forum, such authors as John Collier, Stewart Edward White, James Willard Schultz, M. Clyde Kelly (member of the House Committee on Indian Affairs), Walter V. Woehlke, Mary Austin, Flora Warren Seymour, and others, often using strong language, pointed out the weaknesses in our Indian program and the failure of the Indian office to protect their charges against local politicians, land grabbers, bankers, businessmen, judges and others. It was said that the Indians were being "shamelessly and openly robbed in a scientific and ruthless manner."[8]

Results were not long in appearing. In 1923 Hubert Work replaced Albert B. Fall as Secretary of the Interior. In 1924 the above-mentioned Pueblo Lands Board Act was passed. The year 1925 saw the passage of the Osage Guardianship Act. The issuance of fee patents on allotted lands was gradually retarded. Slowly at first, but gaining momentum during the later 1920's, the climate for change began to improve in Congress, within the Department of the Interior, and in the Indian service.[9]

Looking at the decade of the 1920's in retrospect it seems to me that Commissioner Charles H. Burke and Assistant Commissioner Edgar B. Merrit were not the villains that the reformers of the period would have us believe. This was a period of reform in the country at large. The entire existing governmental system was largely a product of the previous century, as the conditions that developed during the depression years demonstrated. The general welfare clause of the Constitution did not have the same meaning in the 1920's that it would have after 1933.

Although the administrators of the Indian service are aware of the need for change and recommend change, Congress normally responds very slowly. It is not unusual to find that needed changes in policy have died in committee from Congress to Congress for a decade or more until a strong president or public pressure compels Congress to act.

As we review changes in policy we must keep Congress continually in mind, for significant changes in policy usually require congressional enactment, and once the change has been effected Congress must give the necessary budgetary support to see the new program through. This has not been done consistently for long-range programs.

When Hubert Work became Secretary of the Interior it was apparent to him that the only way to avoid the continued needling of the reformers was to officially examine the Indian service and recommend whatever changes seemed to be necessary.

The first report to appear at his request was that of the Committee of One Hundred, a national advisory committee on Indian affairs. Completed in December of 1923, it appeared the next year as a congressional document bearing the title "The Indian Problem."[10] Although John Collier spoke of it very disparagingly, stating that "not one fundamental proposition...was put across," actually some of the recommendations were repeated in the Meriam report and later given legal form in the Indian Reorganization Act.

The report of the Committee of One Hundred did not satisfy the reformers nor did it offer ways of achieving the program outlined. Congress did not yet feel compelled to budget funds to meet the recommendations made. Still under public pressure and still feeling the need for further study of the Bureau, Secretary Work called upon the Board of Indian Commissioners to investigate the Bureau and make recommendations to him. Their report was submitted January 26, 1926. Apparently they realized that they were not able to do what was needed, for in their annual report, submitted later the same year, they recommended that a "non-government, disinterested organization, with a field force of experts" be engaged to make a study. They suggested that such a study, properly done "would carry great weight not only with Congress but also with the general public."[12]

On June 12, 1926, Secretary Work officially requested W. F. Willoughby as director of the Institute for Government Research to make the survey, which was financed with funds provided by John D. Rockefeller, Jr., and submitted to the Secretary of the Interior, February 21, 1928. Published and widely disseminated as a study of The Problem of Indian Administration, it accomplished what the Board of Indian Commissioners had predicted it would, and both Congress and the general public were impressed.[13]

Having a desire to see agricultural conditions for Indians improve, Secretary Work requested in March of 1927 a survey of Indian irrigation projects. This too was completed in 1928 and was published later as the Preston-Engle Irrigation Report. It was in the same scientific tradition and strongly complemented the Meriam report which had not attempted to cover this phase of the problem.[14] Although Secretary Work and Commissioner Burke were not able to effect the changes recommended in these reports, the recommendations they contained were available to strengthen the hands of Wilbur and Rhoads in their relations with Congress during the next administration.

With all the sound and fury accompanying Indian administration during the 1920's, it was inevitable that there be a congressional investigation. Early in 1928, Utah Senator William H. King introduced a resolution that provided for an exhaustive survey of conditions prevalent among Indians. While the Indian Bureau did not violently oppose the investigation, they believed that the Meriam report furnished enough evidence to make the proposed Senate investigation unnecessary.

John Collier appeared at the hearings on the King resolution in his capacity as executive secretary of the American Indian Defense Association. The following statement was made as a part of his speech urging the necessity of the investigation:[15]

> Now, any condition that has existed and slowly increased over successive administrations, over 10, 20, or 30 years, obviously is such a condition as cannot be due to wrongdoing of any individual or group of individuals. It must be due, if it is a bad condition, to some definite bad thing, a system and method of operation, or a body of laws.

The resolution was passed February 2, 1928, with an accompanying appropriation of $30,000 for expenses. The first hearings under the resolution were held by a subcommittee of the Senate Committee on Indian Affairs November 12, 13, and 16, 1928, at Yakima, Washington, and Klamath Falls, Oregon. They were to continue until August, 1943, and be published in forty-one parts and 23,069 printed pages.[16] A supplementary report was made May 2, 1944.[17]

In reviewing the hearings before the Senate and House Committees on Indian Affairs from 1925 to 1928 particularly, and in studying the Meriam report, many similarities are found to the policy statements of the next thirty years. The Collier administration is only a partial divergence from the basic trend that has dominated Indian policy during the last three decades. Quite definitely the 1920's were pregnant with ideas that were given birth, nursed and matured particularly in the 1930's and 1940's. I find little in the policy statements of the 1950's that does not have roots in the previous three decades.

The conferral of citizenship on the approximately one-third of the Indian population that were not already citizens had no noticeable immediate effect, but later the fact that all Indians were citizens would be used by the national government as a pressure on the states to treat Indians as other citizens, to grant them all the rights and privileges other citizens were allowed, and to give them all the services. It would be used as a pressure on the Indians to accept the same duties and responsibilities that other citizens were heir to, including "freedom" and taxes.

FOOTNOTES

I

[1] See John Leiper Freeman, Jr., "The New Deal for Indians: A Study in Bureau-Committee Relations in American Government," (unpublished Ph.D. dissertation, Princeton University, 1952), pp. 18-24; Alice Virginia Waldecker, "Administrative and Legislative Reforms in American Indian Relations, 1928-1934," (unpublished Master's Thesis, Smith College, 1945), pp. 147-151; and Julius Turner, Party and Constituency: Pressures on Congress. (Baltimore: The Johns Hopkins Press, 1951), pp. 53-54.

[2] Ibid., p. 505.

[3] Transfer of Indian Hospitals and Health Facilities to Public Health Service, Hearings before a Subcommittee of the Committee on Interior and Insular Affairs, United States Senate, 83rd Congress, 2d Session, on H.R. 303 (May 28 and 29, 1954), pp. 173-174.

[4] Randolph C. Downes, "A Crusade for Indian Reform, 1922-1934," The Mississippi Valley Historical Review, Vol. XXXII, No. 3 (December, 1945), 335.

[5] Congressional Record, 67th Congress, 2d Session, (1922) pp. 12324-12325.

[6] See New York Times, January 21, 1923, Section 8, p. 4; January 26, 1923, p. 16; January 28, 1923, Section 7, p. 12; February 8, 1923, p. 5; and February 16, 1923, p. 4.

[7] Downes, loc. cit., p. 336; see also New York Times, January 15 and 25, 1923; also House Report 1730, 67th Congress, 4th Session (1922), p. 8.

[8] Downes, loc. cit., pp. 337-339.

[9] Ibid., p. 340.

[10] The Indian Problem. Resolution of the Committee of One Hundred Appointed by the Secretary of the Interior and a Review of the Indian Problem, January 7, 1924 (Washington: Government Printing Office, 1924) Appendix E, pp. 48-49. (Hereafter referred to as The Indian Problem.)

[11] Downes, loc. cit., p. 340; see also John Collier, "The Red Slaves of Oklahoma," Sunset, LII (March, 1924).

[12] Downes, loc. cit., pp. 341-342; see also Annual Report of the Board of Indian Commissioners, 1926, p. 13.

[13] Institute for Government Research, Lewis Meriam, ed. The Problem of Indian Administration (Baltimore, 1928).

[14] Survey of Conditions of the Indians in the United States, Hearings Before a Subcommittee of the Committee on Indian Affairs, United States Senate, S. Res. 79 and 308, Part 6, 1930, 71st Congress, 2 Sess., pp. 2210-2661. Known as Preston-Engle Report.

[15] Hearings on S. Res. 79, Senate Committee on Indian Affairs, 70th Congress, 1st Sess., January 10, 13, 1928, p. 12.

[16] Survey of Conditions of the Indians in the United States, Hearings Before a Subcommittee of the Committee on Indian Affairs, United States Senate, 1928-1943. (Complete citation hereinafter referred to as Senate Survey of Indian Affairs.)

[17] Survey of Conditions Among the Indians of the United States, Supplemental Report, Senate 78th Congress, 2d Session, Report 310, Part 2, May 2, 1944. (Complete citation hereinafter referred to as Senate Survey of Indian Affairs, Supplemental Report.)

II. POLICY BACKGROUND, 1929

In order to understand the changes in policy that appear after 1929, I will briefly outline Indian policy in relation to health, education, welfare, community life, land, resource management, employment, and duration of federal supervision, as I can discover it in the period just prior to 1929.

For comparative purposes I will use annual reports of the Secretary of the Interior and the Board of Indian Commissioners from the period 1925 to 1929; the Meriam report, 1928; recommendations of Assistant Commissioner Edgar B. Meritt to the Senate Investigation Committee, March 2, 1929; Secretary Wilbur's outline of a policy for Indian administration, 1929; and the four memoranda prepared by Commissioner Rhoads, 1929, relating to major problem areas in the administration of Indian affairs. Other significant materials will be used as necessary.

A. Health

1. General Information

The Indian Service was severely criticized by the reformers for its failure to adequately provide for the health of reservation Indians. Actually little attention was paid to Indian health until 1909. In 1911 Congress began in a very conservative way to cooperate by partially supplying funds to remedy the conditions outlined by the Bureau. In 1912 President Taft's special message to Congress very explicitly called this matter to their attention, outlined minimum needs, and asked for funds to remedy the situation.[1] Congress responded half-heartedly. However, from a budget of $40,000 for the Indian Medical Service in 1911, there was a gradual increase to $350,000 in 1918.

Commissioner Burke was aware of the need to improve health conditions for Indians. In 1922, at his request, a survey of Indian health was undertaken by the Red Cross. Completed in 1924, this report showed so graphically the deplorable conditions on Indian reservations that in the face of the whipping the Indian Service was already taking at the hands of the reformers it was not publicized.[2] Requests for additional funds to meet the condition continued.

2. Annual Reports

In November, 1923, a letter from Commissioner Burke to eighteen governors of states containing significant Indian populations outlined a request for federal-state cooperation particularly in matters pertaining to health, education, and welfare.[3] This trend was to continue throughout the 1920's. Several bills were introduced in Congress in the late 1920's having this in mind. John Collier favored the legislation and worked closely with it during this period. He was then secretary of the American Indian Defense Association.

3. The Meriam Report

In a very direct manner this report stated that the work of the government in relation to the Indian as a person, rather than as a property holder, was "largely ineffective." The blame for this is laid at the door of Congress, for failure to appropriate enough funds to "permit the Indian Service to employ an adequate personnel properly qualified for the task before it."[4]

4. Meritt's Recommendations (March, 1929)

> The Indian Service very much needs at least 25 more hospitals, 5 of them to be located in Oklahoma among the Five Civilized Tribes, and 10 additional tuberculosis sanatoria, and these hospitals and sanatoria should be supplied without further delay. There is also needed money to replace a large number of old and inadequately constructed and equipped hospitals, with modern adequate hospital buildings and equipment.
>
> We need now at least 200 additional field and hospital nurses, the field nurses to be provided with automobiles and other necessary equipment and supplies along medical lines.
>
> We need at once a much larger trained force of medical experts on trachoma, also tuberculosis experts. Our service is woefully lacking in these experts on trachoma and tuberculosis, who should be furnished with cars and proper and adequate medical equipment. Trachoma and tuberculosis are so prevalent among Indians as to require the immediate attention of Congress.
>
> We need at least 50 more good doctors provided with automobiles and adequate medical equipment to

supply the medical requirements of the Indians.

We need several sanatorium schools so as to provide for the tubercular Indian children now out of school and who are living in the inadequate homes of their parents, without proper food, clothing, or medical attention and who are transmitting the disease to other members of the family. This is an urgent need that should be immediately provided for by Congress.

Provide employment for Indian girl graduates of our nurse training schools on Indian reservations under the guidance of trained public-health nurses.

We need at once an appropriation to purchase dairy cows, provide adequate dairy barns and feed, so that we can furnish at least 1 quart of milk per day for all our Indian school children.[5]

5. Secretary Wilbur's Outline (Mid 1929)

Insofar as it is feasible the problems of health and education for the Indians shall become a responsibility of the various states.

The Health program should be placed under the Public Health Service.[6]

6. Rhoads Memoranda

The four memoranda dealt chiefly with matters relating to Indian property. The letter of transmission mentions the intention of the administration to "advance the health and education of the Indian," which was done.[7]

B. Education

1. General Information

The principal reason for the existence of the Government's Indian schools is to prepare the Indian children to mingle with white people, as eventually they must do, and to be able to take care of themselves. The great bulk of the Indian boys and girls in school to-day will not go beyond the high-school grades, and the majority of them will not complete those higher grades. A few, comparatively speaking, will stand out as promising candidates for colleges and universities, and efforts should be made to provide opportunities for such students to secure a higher education.

Where Indian children are fitted to profit by the public schools they should attend them, as half of them do now. To say that children, merely because they happen to be Indians, should be provided by the Government with special schools, is not a valid excuse for Indian Service schools. But where the stage of development or the environment of the Indian child make a public school undesirable, then the special Indian school has its task.

This task is to provide the needed development and supply the lacks caused by a faulty environment, so that the Indian child may be brought up to that standard of cleanliness, order, regularity, and discipline which the public school presupposes in its white children. Its task is the changing of a way of living rather than the carrying out of a routine of academic studies. If this is not needed, then the Government school itself is not needed.

An Indian school, therefore, which tends more and more to stress the academic at the expense of the practical, to lay emphasis on the completion of high-school courses and the attainment of college entrance credits, is losing sight of its real reason for existence, which is to prepare the Indian boys and girls eventually to take their places as self-reliant members of an American community.[8]

2. Annual Reports

Attention is called to this significant statement in the letter of transmittal of the report of the Institute for Government Research:

> The members of the survey staff wish me to say clearly in this letter that in almost every activity of the Indian Service

> they found wide variation between the best and the worst. The best at times approaches the ideal; frequently the survey staff has been able to take as their standard for comparison the attainments of the Indian Service itself. The worst often falls far below the normal.

It may be stated that in certain of the schools visited by the present Secretary of the Interior instruction and recitations compared favorably with those to be heard in schools for white children. The Bureau of Education of this department has been directed to cooperate with the Indian Service in an effort to improve the educational system of the Indians. This is expected to result in a program conforming to modern methods among whites and yet providing a practical plan suitable to the Indians. It seems clear that the traditional school system of the whites is not immediately applicable in its entirety to the needs of the Indian children.

It is hoped that closer cooperation may be established between States having Indian populations and the Federal Government in dealing with questions of education, health, and law enforcement. Probably States should ultimately assume complete responsibility for the Indians within their borders, but pending that time there is much to be done by the Federal service.[9]

3. The Meriam Report

The fundamental requirement is that the task of the Indian Service be recognized as primarily educational, in the broadest sense of that word, and that it be made an efficient educational agency, devoting its main energies to the social and economic advancement of the Indians, so that they may be absorbed into the prevailing civilization or be fitted to live in the presence of that civilization at least in accordance with a minimum standard of health and decency.

To achieve this end the Service must have a comprehensive, well-rounded educational program, adequately supported, which will place it at the forefront of organizations devoted to the advancement of a people. This program must provide for the promotion of health, the advancement of productive efficiency, the acquisition of reasonable ability in the utilization of income and property, guarding against exploitation, and the maintenance of reasonably high standards of family and community life. It must extend to adults as well as to children and must place special emphasis on the family and the community. Since the great majority of the Indians are ultimately to merge into the general population, it should cover the transitional period and should endeavor to instruct Indians in the utilization of the services provided by public and quasi public agencies for the people at large in exercising the privileges of citizenship and in making their contribution in service and in taxes for the maintenance of the government. It should also be directed toward preparing the white communities to receive the Indians. By improving the health of the Indian, increasing his productive efficiency, raising his standard of living, and teaching him the necessity for paying taxes, it will remove the main objections now advanced against permitting Indians to receive the full benefit of services rendered by progressive states and local governments for their populations. By actively seeking cooperation with state and local governments and by making a fair contribution in payment for services rendered by them to untaxed Indians, the national government can expedite the transition and hasten the day when there will no longer be a distinctive Indian problem and when the necessary governmental services are rendered alike to whites and Indians by the same organization without discrimination.[10]

4. Meritt's Recommendations

Give us at least $350 per capita in our appropriation for Indian schools instead of $260 per capita so that we can run our Indian schools on a more efficient basis, feed the children with a large variety of food, equip our school dormitories with adequate furniture, and other necessities, provide sufficient equipment for industrial instruction, increase the grades of our day schools for the sixth grade and provide more day schools so that young children can be educated up to the sixth grade near their homes, so that reservation boarding schools can have the grades increased to the ninth and so that we can provide more twelfth-grade high schools.

Also so that we can have the instructors and equipment to teach more fully and efficiently practical industrial courses.

Provide reimbursable appropriations so as to advance money to worthy and ambitious Indian boys and girls who have completed their courses in our Indian schools so they may take college courses to equip them for their chosen life work.

Provide an adequate appropriation, to be immediately available, to put in proper repair all of our Indian school and agency buildings, including adequate water supply, sewerage and toilet, and lighting systems.

Provide an adequate appropriation, to be immediately available, to properly furnish and equip our school rooms, dormitories, and shops. Our schools are sadly in need of these improvements.

We need more and better equipped and paid industrial leaders to supervise and conduct our Indian schools and bring them up to a higher and more modern standard of efficiency.

Continue to prohibit the use of jails at Indian schools and not permit any severe punishment for infraction of rules, but emphasize the practice of withholding privileges as a deterrent so as to insure good conduct of Indian school children.

Increase the capacity of the Sequoyah Orphan Training School from 300 to 500 so as to provide for 200 additional Indian orphan children in Oklahoma. After a personal visit to this school I worked out the details for this increased capacity and we will be glad to furnish this information to your committee.[11]

5. Secretary Wilbur's Outline

It will be necessary to revise our educational program into one of a practical and vocational character and to mature plans for the absorption of the Indian into the industrial and agricultural life of the Nation.

In so far as it is feasible the problems of health and of education for the Indians shall become a responsibility of the various States. Certain assistance for these purposes should be provided the states wherever it is equitable and desirable to do so.

New Indian schools should only be provided if it is not possible to merge the training of the Indian into the school system of the states. In so far as it is possible scholarships in the institutions of higher learning of the country shall be provided for those Indian boys and girls who are capable of going beyond the ordinary high-school training.

The educational program for the Indian should be placed under the supervision of the Bureau of Education.[12]

6. Rhoads Memoranda

See Item 6 under Health above.

C. Welfare

1. General Information

After 1900 rations for Indians were gradually cut down until only those in actual need received food and clothing. During the 1920's there is repeated expression by the Bureau of the idea that health, education, and welfare of Indians is a state problem.

2. Annual Reports

The year witnessed a new use of the reimbursable fund. The appropriation act for the year, making available $175,000 for the purpose of encouraging industry and self-support among Indians, now provides that loans can be made to old, disabled, or indigent Indian allottees for their support, to remain a charge and lien against their lands until paid. This provision makes it possible to aid such Indians as formerly were dependent on friends and relatives or ration issues. It is now possible to advance funds for their support in an amount not to exceed 50 per cent of the appraised value of their lands. There were 63 applications of this kind approved during the past year, involving a total amount of $11,950.[13]

3. The Meriam Report

Problems of material relief are always difficult, but they are especially acute among the Indians, because relief has never been effectively administered. The present "ration system" is carried over from the old army plan of feeding in wholesale fashion Indians concentrated upon reservations, largely as a military measure to prevent hostile outbreaks by a people whose natural food supply had been destroyed by the slaughter of the buffalo and other game. The system is antiquated and unsound in principle and has long outlived whatever usefulness it once may have had. It is merely palliative in character, with no other object than the relief of immediate suffering. A fixed dole of certain articles is given out periodically, without regard to the special needs of the individual or family. On some reservations horse meat has been issued as a ration in spite of the protests of the Indians, who regard it with distaste. Old, crippled, almost helpless Indians are required to come to the agency office in all sorts of weather to get their supplies. On several reservations the survey staff saw poorly clad, old people, with feet soaked by long walks through snow and slush, huddled in the agency office waiting for the arrival of the superintendent or other officer who could give them an order for rations to keep them from actual starvation. Such a system of relief merely encourages mendicancy, for it fails to reach and to deal with the causes of poverty.

Relief should be made a means to an independent income rather than a source of income. Some relief of immediate suffering merely as a palliative measure cannot of course be avoided, especially in emergencies. The agency office, however, is seldom the place for such services, for it can be more effectively performed by visits to the homes of the people in connection with educational work. All relief on the reservation should be administered by trained workers as a part of the educational program, with the object of removing, as far as possible, the necessity of relief.[14]

4. Meritt's Recommendations

We need at once a large reimbursable appropriation, to be made immediately available, to provide for the construction of new homes for Indians or to improve old homes by providing wooden floors, additional windows, and some necessary furniture and household equipment. The bad home and living conditions of Indians has much to do with the sickness and high death rate of Indians. A real campaign for better homes for Indians requires money to make it successful and effective.

Enact legislation for relief of Indians who are wards of the Government but who do not reside on Indian reservations. Under the comptroller's decision we are unable to extend relief to these Indians who often are in need of assistance and are worthy of the help of the Federal Government.[15]

5. Secretary Wilbur's Outline

No mention of Indian welfare as such.

6. Rhoads Memoranda

See Item 6 under Health above.

D. Community Life

1. General Information

There was little in the way of encouragement of the development of Indian community life until the later 1920's. The trend had been toward individualizing and toward breaking up the tribal groups since the Allotment Act of 1887.

2. Annual Reports

The five-year industrial programs, which have heretofore had relation to the activities of the Indians within nearly all of the reservations, are proving successful and appear to be a material factor in their advancement.

The five-year program involves definite objectives for each year and functions through organizations of the men known as "chapters," with women's "auxiliaries" in each district. There were 306 chapters with 5,219 members and 90 auxiliaries with 1,217 members, besides a considerable number of Indians affiliated with irrigation and improvement societies.

Industrial surveys involving a canvass of the reservation to gather statistics as to the condition, resources, and needs of each family, were made within 85 reservations. They form the basis of the five-year program, which was originally adopted for the reservation as a whole, but is gradually progressing toward a separate program for each family, adapted to and contributing toward the general program for the reservation.

The construction of improved homes for Indians is a feature of the five-year program. They have been provided as rapidly as the Indians have evinced a desire for them and whenever funds have been available. Detailed plans and specifications of several types of suitable homes were sent to the reservations during the year with a circular letter designed to stimulate interest in home building.[16]

3. The Meriam Report

The Indian Service has not appreciated the fundamental importance of family life and community activities in the social and economic development of a people. The tendency has been rather toward weakening Indian family life and community activities than toward strengthening them. The long continued policy of removing Indian children from the home and placing them for years in boarding school largely disintegrates the family and interferes with developing normal family life. The belief has apparently been that the shortest road to civilization is to take children away from their parents and insofar as possible to stamp out the old Indian life. The Indian community activities particularly have many objectionable features, but the action taken has often been the radical one of attempting to destroy rather than the educational process of gradual modification and development.

. . . .

With the single exception of the Pueblo form of government, the Indian council and the Indian court represent about the only approach to civic life that the Indians have. Neither the council nor the court is utilized to any great extent as a means of education for self-government. Some superintendents regard these forms of organization half contemptuously, and in some cases seem to consider the council rather a nuisance because it serves as a forum for agitators. The superintendents who do try to use the council and the court have not sufficient help to accomplish very much. With proper assistance these organizations might be utilized in such a way as to diminish rather than to increase the superintendent's load.

. . . .

In some places the Indians seem to have lost both the form and the memory of their own native political organization. The superintendent who organized the Industrial and Better Homes Association found that those Indians had to be taught how to vote on the merits of a question. At first all voted in the affirmative. An old woman at one of the first meetings made a speech in which she explained that the young men did not know how to speak; that her tribe had lost the art because it was so long since they had had any occasion for public speaking.

. . . .

As a specific preparation for release from tutelage Indians should be trained in health, recreational, economic and civic activities. Group participation in these things is a definite part of the education Indians need if they are ever to have a share in the common life of the American people. Even in sparse rural populations American whites have a degree of control over their own local government and the organization of their economic interests far beyond that of most Indians. The fundamentals of group participation can be learned by the Indians more effectively in their natural environment than after they have scattered into the larger white communities where they may encounter the barriers of race prejudice.

As an administrative device community organization would in the long run prove economical. Once the Indians can take care of themselves this branch of the government service may be discontinued. The present policy of consolidating reservations in the interests of economy, even though the Indians are thereby neglected, is not true economy. But if through organization of the Indians native leaders could be developed and community responsibility could be created, then government officers could gradually withdraw supervision without causing hardship and suffering.[17]

4. Meritt's Recommendations

We need more and better equipped and paid industrial leaders so as to provide more efficient industrial leadership for our Indians. There is a great opportunity for the industrial awakening of the Indians. There should be definite well-planned industrial progress worked out for each reservation suitable to the needs and conditions of that particular reservation, which should be adhered to without regard to changes in superintendents and other employees. The Indians are now ready for this industrial awakening, but the right industrial inspirational leaders are required and there should be provided adequate reimbursable appropriations for the farming and stock-raising activities of the Indians.

Indian councils or business committees should be organized on each reservation and these selected representatives of the Indians should be recognized by the superintendent and consulted freely. and the views and wishes of the Indians should be more fully considered and the plans of the Indian Service carefully explained, so that much cause for complaint because of lack of knowledge of plans and intentions would be removed and closer cooperation brought about through mutual understanding and unity of purpose.

Make it clear to all Indians that the Government does not intend to interfere with their customs, traditions, or religion; also their ceremonial dances so long as they keep within the bounds of reason and do not transgress moral laws.

Encourage Indians to have local Indian organizations for self-improvement. An example of constructive improvements and benefits to the Indians may be cited in the holding annually of the Pueblo and Navajo Council. No doubt councils could be held with profit among other Indians similar to the Navajo and Pueblo Councils.

Establish community bathhouses and laundries in thickly populated Indian communities with spare room for reading and community meeting purposes with the idea of developing social-service work and the community spirit.

Trained social-service workers are needed on each Indian reservation as home-demonstration agents to improve home and community conditions. These home-demonstration agents, if properly trained in social-service work, could materially improve the home and living conditions of the Indians.[18]

5. Secretary Wilbur's Outline

It shall be the aim to provide employment for Indians for all occupations possible in connection with Indian communities.[19]

6. Rhoads Memoranda

In his second letter Commissioner Rhoads referred to what he called the "indivisible tribal estates of the Indians." To best conserve and develop such property as minerals, oil, timber, grazing lands, and power sites, he recommended that it be treated as an estate, not capable of being subdivided. A method of tribal incorporation was referred to as a means of holding such property. Reference is to the McNary Bill (S. 5757) to incorporate the holdings of the Klamath Indians.[20] This was suggested by Meriam report, above.

E. Land

1. General Information

The results of the Dawes Act and amendatory legislation have not been what the proponents of the general allotment policy hoped for. The statistical data in the Indian Bureau's annual reports show that by reason of allotments tens of thousands of Indians have disposed

> of their lands, and it is known that the great majority of them sold their allotments for inadequate payments and quickly spent the proceeds. They became landless, moneyless Indians.
>
> The failure of the purpose of the allotment act must be admitted. What has been done cannot be undone, but the future handling of Indian lands by the Indian Bureau should be characterized by caution and guided only by consideration for the best interest of the allottees.[21]

2. Annual Reports

During fiscal 1928, there were 1,067 allotments made to individual Indians aggregating 101,234 acres. Ninety-one allotments comprising 12,916 acres were made to Indians on the public domain in various states.

> During the first session of the Seventieth Congress legislation was enacted providing for withdrawal from entry or other disposition under the public land laws of approximately 91,000 acres of public land for the use of Indians in several States, including about 14,000 acres for the Acoma Pueblo Indians in New Mexico, about 69,000 for the Walker River Indians in Nevada, and about 7,000 acres for the Umatilla Indians in Oregon.
>
> Pursuant to authority contained in the second deficiency act for 1928, approved May 29, 1928, $200,000 was made available for expenditure during the fiscal years 1928 and 1929, for the purchase of land and water rights for Navajo Indians residing on the public domain in Arizona and New Mexico. The item provides for a total expenditure of not to exceed $1,200,000 from funds belonging to the Navajo Tribe representing proceeds from the leasing of tribal oil lands. The total income from this source for the fiscal year 1927 was approximately $346,000, and for the first quarter of 1928 it was approximately $52,000. The estimated income for the fiscal year 1929 is $260,000.
>
> The tribal representatives have expressed themselves as in favor of the use of tribal funds in the purchase of additional land for those members of the

tribe living on the public domain and numbering about 6,000. The livelihood of the Navajo Indian is largely dependent upon the raising of sheep and cattle. It is therefore necessary for them to have under their ownership or control sufficient land with which to pursue their principal industry and source of support. When all necessary information has been received and considered, steps will be taken to purchase such tracts in the various jurisdictions as may be found suitable and within the limits of the amount authorized.[22]

3. The Meriam Report

Admirable as were the objects of individual allotment the results have often been disappointing. Too much reliance was placed on the sheer effect of individual land ownership and not enough was done to educate the Indians in the use of land. The strength of the ancient Indian custom of communal ownership was not realized. It is still difficult for the Indians to understand and feel the white man's pride in the individual ownership of land. As time went on the shift of property from tribal to individual ownership was sometimes brought about not because sound educational and business principles demanded it, but rather because of pressure brought to bear by the Indian and his white neighbors, both of whom saw in the creation of individual holdings the first step toward giving the Indian complete control of his property, including the power to alienate it. Added to this tendency has been a certain amount of pressure brought by the public at large, due to widespread feeling that the Indians should be removed from governmental control and take their place as ordinary citizens of the state and nation.

. . . .

Thorough mature consideration should be given to the possibilities of using the corporate form of organization for tribal property that consists of great natural resources which cannot be economically administered or developed in small allotments. The outstanding opportunities for careful experiments in applying this modern form of business organization in the administration of Indian affairs appeared to the survey staff to be at the Klamath reservation in Oregon and at the Menominee reservation in Wisconsin. The possibilities appear sufficiently great to warrant a fairly detailed discussion.

. . . .

The intelligent progressive Indians, especially at Klamath, are anxious to have some plan devised whereby their interest in this great tribal resource may be individualized, so that they may work with their own capital in advancing themselves. They say that they cannot work with the forests and that the amount available from per capita payments is too small to work with; that it is only enough to be an inducement to idleness, a contention that has much soundness. The solution they offered, at the beginning of the council with the survey staff, was for the immediate sale of all the timber and distribution of the proceeds, thereby permitting competent Indians to have immediate possession of their capital assets. Such a solution seemed to the staff objectionable on many grounds. So large a timber area could not be sold to advantage quickly. Sale in relatively small blocks would destroy the possibilities of selective lumbering and the effective use of the land as a national resource. Some Indians believed competent would prove not so and would promptly dissipate their capital. The funds of incompetent Indians would have to be invested and disbursed, with all that would mean in the way of work and friction.

The sounder plan appears to be to individualize the property through the corporate form of organization so that the property itself would be maintained intact and the interest of the individual Indian in it would be represented by shares of stock in the corporation.

Indians who have already thoroughly demonstrated their business capacity could be given their shares to do with as they will. Others who are believed to be competent but who have not yet demonstrated their capacity, could be given limited experimental use of their shares, being permitted to sell a part of them outright or to deposit them as collateral for loans for productive purposes that seem sound and promising to the government officers responsible for their guidance and development. Young men desiring higher education might be permitted to sell enough of their shares to get the necessary funds. The shares of the old and feeble might be sold to provide them with necessities. The shares would be far more liquid assets than any allotment of land. They could be more minutely divided and could be sold or pledged without the formalities incident to transactions involving real property.

. . . .

For many years the government has pursued a policy of purchasing and opening to white settlement the so-called "surplus lands" of Indian reservations. This practice has proceeded so far that at present few tribes have more lands than they require. In the future unallotted lands should generally be reserved to the Indians themselves. The needs of most tribes must slowly but surely increase if they are to maintain themselves in the presence of white civilization, and if any case exists where there is not immediate necessity for all the lands now reserved to a group such need is likely to exist in the near future.

Several reservations are not at present large enough to support the population owning them. These should be enlarged if possible. Especially should some plan be formulated at once to solve the land problem of the Navajos. These Indians are now utilizing their range almost if not quite to the limit of its capacity for the sheep and other livestock which constitute their chief economic resource. Several thousand of them are living as trespassers on the public domain or on small allotments inadequate for their support. Their reservations should be enlarged right away so that the economic development of these industrious people may go on.[23]

4. Meritt's Recommendations

Change the existing allotment laws and do not make further allotments on Indian reservations under the present laws for the reason that under these laws Indians are gradually losing possession of their lands. Personally I am strongly opposed to the allotment of the Menominee, Red Lake, Pueblo, Navajo, and other unallotted Indians in the Southwest at this time and

> under existing laws.
>
> Be conservative in the issuance of patents in fee and certificates of competency, but allow young educated able-bodied Indians with small degree of Indian blood an opportunity to handle their property free from Government supervision. Also allow other Indians full opportunity, consistent with their best interest, to handle their property and develop business experience while their lands are held in trust.[24]

5. Secretary Wilbur's Outline

> In so far as possible, except on a few large reservations that are appropriate for a satisfactory life for the Indians, there should be continued allotment of land with full ownership rights granted to the Indians.[25]

6. Rhoads Memoranda

The Commissioner's first letter referred to reimbursable charges against allotted lands. He pointed out that the General Allotment Act expressly provided that allotted land should be conveyed to the Indian or his heirs "in fee, discharged of said trust and free of all charge or incumbrance whatsoever." He asked if liens on allotted lands, under the circumstances, were constitutional. Commissioner Rhoads suggested that means be provided which would allow fractionated heirship lands to revert to the tribal estate. He also suggested that loans be made available that would allow an heir who wished to retain an original allotment to buy out the other heirs, if they were willing to sell, rather than have the land fall into the hands of non-Indians.[26]

F. Resource Management

1. General Information

Section 26 of an act of June 30, 1919 (41 Stat. 31) had authorized the Secretary of the Interior to lease for mining of metalliferous minerals the unallotted lands within any Indian reservation in the States of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming. The length of the term of such leases was left to the discretion of the Secretary of the Interior, but the leases

> were to be irrevocable except for breach of their terms by the lessee. On March 3, 1927, (44 Stat. Pt. 2, p. 1347) the making of oil and gas leases on unallotted lands within reservations created by Executive order was first authorized, with a recognition of the right of the Indians to the proceeds of such leases. The act of June 25, 1910 (36 Stat. 857) had recognized the interest of the Indians in the forest resources of Executive order reservations and thus had dealt a blow to the theory that the Indians held a title to such reservations substantially inferior to that held in reservations established by treaty. The act of March 3, 1927 carried the principle a step farther and from 1927 onward the right of the Indians to the beneficial use of all resources within the boundaries of an Executive-order reservation has been recognized.[27]

The five-year industrial programs, mentioned under Community Life, Item 2, above, were first tried on the Blackfeet Reservation in 1922. The success enjoyed there led to further use on other reservations until it became a matter of general policy. Conceived at first as a means of developing reservation resources, it gradually was individualized to meet the policy of the mid-1920's.

2. Annual Reports

The annual reports show that a large majority of the Indians are doing something in the way of farming. It cannot be denied that with the help of the Indian Service there has been considerable agricultural advancement among them, but the Indians who have succeeded as commerical farmers are the exception.

There are, however, many Indians who raise enough produce to meet most of the food needs of their families. Such Indians can well be called successful subsistence farmers. In our opinion a fundamental reservation need is an economic program designed to develop subsistence farming to the point where each Indian family would have its garden, poultry, milch cow (where pasturage and fodder are available), potato patch and grain fields sufficient to provide the family with the bulk of its food and, perhaps, with some surplus that could be sold. In short, subsistence, not commercial farming should be emphasized, as, indeed it is where the 5-year industrial program of the Indian Service has been worked out.

> Each reservation should have its particular agricultural program, determined by qualified specialists sent there for that particular purpose, and where there are none competent agricultural instructors should be detailed to reservations to lead the Indians toward a better appreciation of subsistence farming.[28]

3. The Meriam Report

After making the statement that "even under the best conditions it is doubtful whether a well-rounded program of economic advancement framed with due consideration of natural resources of the reservation has anywhere been tried out," although the report discusses natural resources further, in relation to economic development, agriculture, cattle and sheep raising, and production of native Indian products; the placement of Indians in industry away from the reservations is stressed more strongly than over-all resource development, taking into consideration the total resources of each reservation.[29]

4. Meritt's Recommendations

> We need a much larger reimbursable appropriation for industrial assistance to Indians who want to begin or enlarge their industrial activities but are handicapped because of lack of funds.
>
> Much of the reimbursable appropriations now charged to Indians for roads, bridges, and irrigation work should be charged off. It has been for about 15 years the policy of Congress to make the appropriations in reimbursable form when it was known that there was little chance of these appropriations being reimbursed. For example, the Fort Peck and Blackfeet and other Indians of Montana should be relieved of much of the reimbursable charges for irrigation, all the irrigation appropriations made reimbursable by the retroactive act of 1914 should be wiped off the books, the California irrigation charges should be greatly reduced, the Pima, Pueblo, Navaho, and other bridge reimbursable items should be charged off, also much of the reimbursable appropriations charged against the Pueblo and Navajo Indians should be reduced or charged off entirely. These reimbursable appropriation items are the cause of much dissatisfaction among the Indians and the basis of unjust criticism of the Indian Service.

There are many millions of dollars of reimbursable appropriations that might well be entirely eliminated and the Indians relieved of this indebtedness that they can never repay.

We need more and better equipped and paid industrial leaders so as to provide more efficient industrial leadership for our Indians. There is a great opportunity for the industrial awakening of the Indians. There should be definite well-planned industrial progress worked out for each reservation suitable to the needs and conditions of that particular reservation, which should be adhered to without regard to changes in superintendents, and other employees. The Indians are now ready for this industrial awakening, but the right industrial inspirational leaders are required and there should be provided adequate reimbursable appropriations for the farming and stock-raising activities of the Indians.

Specific reimbursable appropriations should be obtained to enable the Pima Indians to put in cultivation within the next three or four years the 40,000 acres of additional irrigable lands made available by reason of the construction of the Coolidge Dam on the San Carlos Reservation. We have worked out a definite program for this purpose and if we can obtain the required appropriations from Congress this 40,000 acres of land will be actually under cultivation within a few years.[30]

5. Secretary Wilbur's Outline

There is no specific reference to resource management.

6. Rhoads Memoranda

The Commissioner's fourth letter referred to the need for further investigation of reclamation and irrigation practices on Indian lands. He pointed out that the reimbursable cost on some projects was equal to or greater than, the value of the land itself.[31]

G. Employment

1. General Information

Any reservation economic program will fall short of its full purpose if it does not include provision for ways and means to secure gainful labor for the Indians, especially at times when crop failure or other causes makes it necessary for Indians to leave their homes to find work. Although the recent annual reports of the Indian Bureau indicate a growing interest in the important question of opening up opportunities of outside employment when desirable for reservation Indians, and for gainful work for boys and girls who leave the Indian schools, the Indian Service never has had a well-planned organization to get jobs for Indians. 32

2. Annual Reports

The major number of requests for employment that come to the office from Indians are for positions in the Federal Service. In the field superintendents act as labor agents and secure work for the Indians of their respective jurisdictions. At Blackfeet and other northwestern agencies there was considerable activity in putting Indians to work. At San Carlos a resident labor agent has induced all of the Indians of the vicinity to go to work and is extending his efforts now to adjacent reservations.

Indians having allotments with water available are achieving success in farming and stock raising, as their industry warrants. Within some reservations Indians have built and furnished modern homes, which are well kept and sometimes rival those of their white neighbors, this being brought about by the Indians finding employment regularly. In estimating the income of Indians, those who have established homes away from reservations must be included.

A considerable number of Indian boys and girls upon leaving school by graduation or otherwise find employment away from their homes in various occupations and render services creditable to themselves. Obviously the main purpose of the education which the Government is at pains to afford is to prepare them for and assist them to enter into such occupations as may serve to establish them in a future position of independence and self-support. Assistance in the matter of placing an Indian boy or girl in the most suitable occupation and environment is an essential factor of the entire problem of Indian civilization. Assistance heretofore has been given by superintendents of schools and reservation employees to a limited extent but has not been systematized nor sufficiently organized and developed.

It would be highly important could this work be developed and sufficient moneys be appropriated for employment of a small but efficient personnel to conduct the work. This is a phase of Indian administration which especially calls for remedial action. The Indian graduate entering upon his life work is deprived of the assistance which in the case of the young white man or woman is rendered by parents or friends.[33]

3. The Meriam Report

The first point to be clearly recognized is that the Indian boy or girl leaving school is under a tremendous handicap as compared with the typical white boy or girl, in that he or she is not a member of a family already fairly well adjusted to the existing economic civilization. These young Indians leaving school cannot look to the older generation for advice, guidance, and assistance in getting established on a sound economic basis. Often they cannot make their homes with their parents in the first few trying years after leaving school, as can many a white boy who shifts about from job to job in the effort to get a suitable place in the industrial world. Their earnings in such a period are frequently low, especially in jobs which offer possibilities for the gradual acquisition of skill and ultimately the larger earnings that come to skilled workers. Having no homes where they may stay without cost or with such payment as they can afford to make from their earnings, they are obliged to shift for themselves and direct themselves, although they are not as well equipped as white children with knowledge of the industrial life of the communities where work is to be found.

The government must recognize that it is in loco parentis to these Indian youths, and that at no period in their lives is the intelligent and understanding exercise of its functions as personal guardian more needed than in those years when they are finding their place as productive members of society. The evidence seems to warrant the statement that despite the importance of this period in the lives of Indian youth no other period has been more neglected. Something has been done in finding a relatively small number of them minor positions in the government service, often through the questionable device of lowering the standards for those positions in order to permit Indians to occupy them before they have had the training and experience which would qualify them for similar positions outside the Indian Service. The great majority of Indian youths are not receiving the advice, aid, and assistance from their guardian at the time when it can be of greatest aid to them economically and socially.

The first constructive step, therefore, in aiding the Indians to be self-supporting, should be definite improvement in their educational equipment and the devising of a suitable system for placing Indian youths in the industrial world in positions that afford them a reasonable opportunity to achieve economic independence.[34]

4. Meritt's Recommendations

Provide employment for Indian girl graduates of our nurse training schools on Indian reservations under the guidance of trained public-health nurses.

We need an appropriation, to be immediately available, to provide for an Indian employment force to find jobs for Indians. We have too many idle Indians on reservations who could become self-supporting and independent if they were properly placed in suitable jobs away from the reservation.

We need a large gratuity appropriation each year to build and maintain roads on Indian reservations and at the same time furnish employment to Indians.[35]

5. Secretary Wilbur's Outline

It will be necessary to revise our educational program into one of a practical and vocational character and to mature plans for the absorption of the Indian into the industrial and agricultural life of the Nation.

It shall be the aim to provide employment for

47

Indians for all occupations possible in connection with Indian communities.[36]

6. Rhoads Memoranda

Employment is not mentioned specifically.

H. Duration of Federal Supervision

1. General Information

The annual reports of Secretaries of the Interior and Commissioner of Indian Affairs for the past 20 years indicate that the executive officers of the Federal Government, upon whom Congress has laid the weighty responsibility of handling the affairs of our Indian people, have kept in mind the idea of accelerating the progress of the Government's wards. The Board of Indian Commissioners gave expression to its favorable attitude toward a policy of acceleration in its annual report of 1923, as follows:

> Congress can hasten the day when Federal supervision of Indian affairs will end and necessary calls on the National Treasury will cease by heartily cooperating with the Secretary of the Interior and the Commissioner of Indian Affairs in speeding up the working out of the Government's Indian policy. This would, of course, for a time, require augmented appropriations, the enactment of some legislation, and the repeal of some laws, which the department has requested.
>
> The members of this board have been given unusual opportunities to study the Indian question at close range. As one result of our investigations and surveys, we are of the opinion that increased appropriations at this time for schools, for medical service, for added hospital equipment, for larger salaries and better living conditions for field employees, for the stricter enforcement of law and order in the Indian country, for increased activity in the development of natural resources, and for the stronger and more effective protection of Indians in their

> property and legal rights would be sound business policy and practice. The result, we believe, would be such a speeding up of administrative activities that the progress of the Indian people toward their complete absorption into the citizenship of the United States would be accelerated to such a degree that the need of Federal supervision of Indians and their affairs, and appropriations for such supervision would disappear in a comparatively short time.[37]

2. Annual Reports

Closer cooperation between Federal and State officials is being encouraged by the department. To that end special conferences are to be held in Minnesota, Wisconsin, and California during the early months of the next fiscal year. The possibility and practicability of one or more of these States assuming greater responsibility in Indian affairs relative to education, health, medical, and welfare work will be subjects for discussion. The governors of their respective States have appointed special committees to meet with a committee which has been appointed by the department. It is hoped and believed that such conferences will at once result in a clearer understanding of the complex Indian problems and will hasten the time when the States will accept larger responsibility in connection with the preparation of the Indians for complete citizenship.[38]

3. The Meriam Report

Although the report suggests that constitutionally and historically "the function of providing for the Indians is the responsibility of the national government," and

> That the transfer of activities from the national government to the state governments should not be made wholesale, but one activity at a time, as the willingness and ability of the state justify.

It also holds:

> That it is in general highly desirable that the states should as rapidly as possible assume responsibility for

> the administration of activities which they can effectively perform alike for whites and for the Indians with a single organization, with the exception of activities that are directly concerned with Indian property. Experience tends to demonstrate that national control and supervision of property must be about the last of the activities transferred to the states.

The report also suggests that "it is regarded as highly desirable that the Indians be educated to pay taxes and to assume all the responsibilities of citizenship." The tax should be suited to the ability of the Indian to pay, and taxation itself "should be approached from the educational standpoint."[39]

4. Meritt's Recommendations

> Legislation is needed to wind up the tribal affairs of the Five Civilized Tribes and dispose of the tribal property of these Indians. Also there is need for changes in the probate and other laws affecting the property of the Indians of the Five Civilized Tribes.
>
> There should be the closest cooperation with local, county, and state agencies and with other branches of the Federal Government with the view of receiving all of the technical and helpful assistance possible in handling that Indian problem, but it is my judgment that Congress, at least for several years to come, should recognize the fact that the Indian problem is a Federal obligation and should make its appropriations and enact laws affecting the Indians with that end in view.[40]

5. Secretary Wilbur's Outline

> The fundamental aim of the Bureau of Indian Affairs shall be to make of the Indian a self-sustaining, self-respecting American citizen as rapidly as this can be brought about. The Indian shall no longer be viewed as a ward of the Nation but shall be considered a potential citizen. As rapidly as possible he is to have the full responsibility for himself. Leadership should be given the Indians rather than custodianship. The Indian stock is of excellent quality. It can readily merge with that of the Nation.

In order to bring this about it will be necessary to revise our educational program into one of a practical and vocational character and to mature plans for the absorption of the Indian into the industrial and agricultural life of the Nation.

In so far as it is feasible the problems of health and of education for the Indians shall become a responsibility of the various States. Certain assistance for these purposes should be provided the States wherever it is equitable and desirable to do so.

The general policy should be to increase the facilities for the care and development of the Indian for a short period of time, with the general plan in mind of eliminating the Indian Bureau within a period of, say, 25 years.[41]

6. Rhoads Memoranda

The duration of federal supervision is not specifically discussed by Commissioner Rhoads.

I. Bureau-Congressional Relations, 1929

It would be unfair to leave this background period without resurrecting from the obscurity of the over 20,000 printed pages of the Senate Indian Investigation a little exchange between Assistant Commissioner Meritt and the Senate Subcommittee, sitting at Washington, D.C., March 1, 1929. The exchange preceded the submission of the "Meritt Recommendations" used in this chapter, which in themselves anticipate much that was to be included in the Indian Reorganization Act:[42]

> Senator Wheeler. Let me say this to you. The trouble has been, if you will permit this criticism in view of what you are saying, that when you sent your investigators out to investigate some charge, they have generally gone to the superintendents and notified them in advance that they were coming, stayed at the house of the superintendent, and been entertained by him when they were there.
>
> Mr. Meritt. Our inspecting officials have instructions not to do that.
>
> Senator Wheeler. They have instructions not to do it, but

I know of my own personal knowledge that that has been done.

Mr. Meritt. Now, I want to say, Senator, that I know the reason why these citizens' committee reports were called for. They were called for because of the articles appearing in the Good Housekeeping magazine for February and March.

Senator Wheeler. I have not even seen the articles in Good Housekeeping, and I do not know what they contain.

Mr. Meritt. That was the cause of those citizens' committee reports, and we want to get the benefit of these outside suggestions, and we want this committee to have the benefit of these suggestions, because I think they are helpful and constructive, and we want all the constructive suggestions we can get in regard to these Indian problems, because this is one of the most difficult problems in connection with the Federal Government.

Senator Wheeler. I agree with you.

Mr. Meritt. And the Indian Bureau is the most difficult bureau connected with the Federal Government to administer.

Senator Wheeler. I agree with you, and I will say this to you, that most of your Indian agents have my sympathy, because they are being hauled and pulled about, first by whites and then by the Indians, and they are in an extremely difficult position, and it is almost beyond me to understand why any man would take one of those places.

Mr. Meritt. I wish you would extend your sympathy to some of those here in Washington.

Senator Wheeler. I will extend my sympathy also to the Indian Bureau, because I know they have a great many difficulties.

The Chairman. I want to ask if this order in regard to investigation of the schools by these Indian committees was not sent out just after the hearing here at the Capitol in regard to the school at Genoa, Nebr.? Was it sent out previous to that hearing?

Mr. Meritt. I will tell you the history of this, so that you will have the facts. If you want me to go into this matter I will be glad to do so. We have worked hard, pleading for money for the Indian Bureau. The record shows that in the past two years we have asked between $12,000,000 and $13,000,000 in our estimates, that we have not been able to get.

Senator Thomas. In the last two years?

Mr. Meritt. In the last two years; and that statement was put in the record by Senator Thomas.

Senator Wheeler. How much money did you ask for?

Mr. Meritt. We asked for $12,000,000 to $13,000,000 that we were not able to get, in the last two years. That statement was put into the record by Senator Thomas and we pointed out the details of our requests. If we had gotten that twelve or thirteen million dollars, we would have been able to correct a lot of the conditions that are being complained of.

We have asked for that money and we cannot get it, and under the Budget system we are not permitted to ask Congress for it, yet under the same system we are being criticized for not doing these things we cannot do without money.

Senator Wheeler. I want you to understand my position about the matter. I think this committee ought to go into those matters and find out. I do not think we should blame the Indian Bureau at all because of the fact that they cannot get money, because Congress does not give them the money, to build the proper schools and give the Indians the kind of conveniences that they should. I think that part of the blame, or at least a good deal of the blame, probably rests on Congress, for the condition of the Indians, and a good deal on the Budget Bureau.

Mr. Meritt. I am glad to have you make that admission.

Senator Wheeler. It is not an admission; it is a statement.

Mr. Meritt. It is a statement of the facts, and I recognize that. Knowing the Indian Service as I do, I know that is the situation.

Congress has passed probably 3,000 laws, scattered throughout the statutes. There are probably 300 treaties approved by Congress that we are required to follow, and we must do these things that are in the law. If we had our way on a lot of things, we would do differently; but we must follow the law and be guided by the appropriations that are passed by Congress.

We are getting about $15,000,000 a year in appropriations, when we need $25,000,000 annually. We cannot carry on these schools, we cannot conduct these agencies as they should be conducted, because we have not got the money.

Senator Wheeler. Because of the economy program.

Mr. Meritt. We are right now conducting our schools on the basis of $250 per capita, which includes board, clothing, medical attention, dental attention, books, and everything else that they receive at these schools, when, as a matter of fact, outside schools doing a similar work are expending at least $500 per capita for that kind of work.

The Chairman. Probably twice as much.

Mr. Meritt. Yes, practically twice as much; and it is impossible--

The Chairman. I think that is right.

Mr. Meritt. It is impossible for us to give the schools everything we would like to give them, because we have not got the money.

The Chairman. I think you are correct in that statement; absolutely.

Mr. Meritt. We are very glad to have that recognized.

Senator Wheeler. Speaking for myself, I hope you will feel free to come to the committee, and will not feel that the Bureau of the Budget is going to arrest you and put you in jail because of the fact that you come before us and tell us your needs; because the committee want you to come before it and tell us exactly what is needed upon these various legislative matters, in the way of schools, and appropriations that are necessary.

Mr. Meritt. But you appreciate that we are under instructions under the Budget system not to ask for anything that is not transmitted to Congress.

The Chairman. Yes, that is the situation.

Senator Wheeler. I understand that.

Senator Pine. I would like to have you, Mr. Meritt, to get in with this committee and try to show the committee the actual needs of the Indians; not assume that we are trying to "get" the Indian Bureau, or trying to "get" some individual in the Indian Bureau, but that we are trying to develop and place on record the exact facts; and if there is any evidence that is put in the record at any time or any place, we are just as anxious as you are to refute it if it is not correct. We want to develop for the information of Congress and for the information of the Indian Bureau and for the information of the public, the existing facts as they are, and nothing else.

Mr. Meritt. I am very glad you made that statement, Senator, because the method of the investigation in the field brought out testimony that was absolutely unfair, and this testimony was taken and broadcast by certain propagandists and has given the public at large an entirely erroneous impression of conditions existing at Indian schools and on Indian reservations.

I am also glad that you have asked me for cooperation. Up to this time that request has not been made, and I am very glad, indeed, to cooperate with this committee, and I want to state to the Senators that this investigation can be a helpful investigation, it can be a cooperative investigation, it can be a constructive investigation and it can bring about an improved condition in the Indian Service, if the investigation is conducted along the right lines.

Senator Wheeler. Well, I can assure you, Mr. Meritt, so far as I am concerned--and I think the rest of the committee--that is what we want to do, and that is what our intention is--and the real intention of the committee is to correct any evils that exist here, and we want the cooperation of the Bureau.

Mr. Meritt. I have been in the Indian Service for many years, and I believe that I know as much about this subject as most men, in connection with the Indian problem, and I will be glad to be of real assistance, and I will be glad to make constructive suggestions from time to time as to the needs of the Indians.

Senator Wheeler. We will be glad to have you do so.

Mr. Meritt. I will start in this matter and will write out what I consider constructive suggestions, and will add to them from time to time so as to be of as much help to the committee as possible. I really want to be of assistance to the committee, and I think it can result in great good to the Indians.

Senator Wheeler. The purpose is not to "get" anybody in the Indian Service, or anything of that kind.

Mr. Meritt. But, Senator, the statements have gone out by the propagandists that they are going to "get" us. That is what they started out to do.

Senator Wheeler. So far as I am concerned, I do not care about any statements that propagandists make, and I am not interested in any propagandist. What I am interested in is doing something for the benefit of the Indians.

Mr. Meritt. But they are using this kind of testimony for the purpose of broadcasting it over the United States; and then they are bringing influence to bear to destroy officials who have devoted their lives to the service and who have done more for the Indians than they can do if they live a thousand years.

Senator Wheeler. There will not be anybody destroyed unless there is evidence upon which to do it, so far as I am concerned.

The role of Congress in Indian affairs needs to be observed closely. Bureau officials have often been maligned for evils that should be laid at the door of Congress, for the inept action of its committees or committee members. Congress has usually succeeded in making the Bureau the scapegoat to cover their own actions, or failure to act.

To help the reader to further appreciate the position of Bureau officials during the 1920's the following quotations are included from the report of the Committee of One Hundred, which met in 1923:

> The Commissioner of Indian Affairs has a most perplexing and unappreciated job. Whatever he does he is damned by someone for doing it and he is equally damned if he does not do it. His position has been called "the meanest job in the Government service." He stands in the relation of father to the biggest family in the world, for he has direct, almost intimately personal, supervision over the affairs of more than 240,000 men, women, and children. The signing of his name to an order can bring happiness or unhappiness to thousands of Indian homes in a single day, for the ramifications of his office reach to the very center of the family circles of the

people under his care.[43]

And in regard to the superintendent:

> He has no sinecure. On one side of him is the Government with its adamant requirement of 100 per cent accountability; on the other side are a score or more of employees, living in an isolated community whose very isolation tends to breeding petty jealousies and factional cliques and hundreds of Indians each with his problem, demand, complaint, and request. He is subjected to frequent inspections and check-ups and at any time is apt to have charges preferred against him by disgruntled employees and dissatisfied Indians or by white men who assert he has not treated them fairly. All charges, if deemed of enough importance, are investigated by inspectors from the Indian Office and action taken if necessary.[44]

FOOTNOTES

II

[1] Annual Report, Board of Indian Commissioners, 1929, p. 22.

[2] Senate Survey of Indian Affairs, Part 6, p. 1005.

[3] The Indian Problem, Appendix E, pp. 48-49.

[4] Meriam, op. cit., pp. 8-11

[5] Senate Survey of Indian Affairs, Part 4, pp. 1789-1790.

[6] Annual Report, Board of Indian Commissioners, 1929, p. 4.

[7] Ibid., 1930, p. 15.

[8] Annual Report, Board of Indian Commissioners, 1929, pp. 23-24.

[9] Annual Report, Secretary of the Interior, 1928, pp. 17-18.

[10] Meriam, op. cit., pp. 21-22.

[11] Senate Survey of Indian Affairs, Part 4, pp. 1789-1792.

[12] Annual Report, Board of Indian Commissioners, 1929, pp. 3-4.

[13] Annual Report, Secretary of the Interior, 1928, p. 61.

[14] Meriam, op. cit., pp. 486-487.

[15] Senate Survey of Indian Affairs, Part 4, pp. 1790, 1792.

[16] Annual Report, Secretary of the Interior, 1926, p. 7; also 1927, p. 59.

[17] Meriam, op. cit., p. 15; 633; 634; and 636.

[18] Senate Survey of Indian Affairs, Part 4, pp. 1790, 1791.

[19] Annual Report, Board of Indian Commissioners, 1929, p. 4.

[20] Ibid., 1930, p. 16.

[21] Annual Report, Board of Indian Commissioners, 1929, p. 25.

[22] Annual Reports, Secretary of the Interior, 1928, pp. 64-65.

[23] Meriam, op. cit., pp. 460-461; 462; 463-464; 466-467.

[24] Senate Survey of Indian Affairs, Part 4, pp. 1791, 1792.

[25] Annual Report, Board of Indian Commissioners, 1929, p. 4.

[26] Annual Report, Board of Indian Commissioners, 1930, pp. 15-16.

[27] J. P. Kinney. A Continent Lost--A Civilization Won. (Baltimore: Johns Hopkins Press, 1937), pp. 297-298.

[28] Annual Report, Board of Indian Commissioners, 1929, pp. 22-23.

[29] Meriam, op. cit., pp. 14, 430-542. Also see Index.

[30] Senate Survey of Indian Affairs, Part 4, pp. 1790-1791.

[31] Annual Report, Board of Indian Commissioners, 1930, p. 16.

[32] Ibid., 1929, p. 23.

[33] Annual Report, Secretary of the Interior, 1928, pp. 61-62.

[34] Meriam, op. cit., pp. 434-435.

[35] Senate Survey of Indian Affairs, Part 4, pp. 1789, 1790, 1792.

[36] Annual Report, Board of Indian Commissioners, 1929, pp. 3 and 4.

[37] Ibid., 1926, p. 3.

[38] Annual Report, Secretary of the Interior, 1927, p. 70.

[39] Meriam, op. cit., pp. 98, 99.

[40] Senate Survey of Indian Affairs, Part 4, p. 1790.

[41] Annual Report, Board of Indian Commissioners, 1929, pp. 3-4.

[42] Senate Survey of Indian Affairs, Part 4, pp. 1785-1788.

[43] The Indian Problem, p. 20.

[44] Ibid., p. 24.

III. THE RHOADS-SCATTERGOOD ADMINISTRATION, 1929-1933

A. Background

The Meriam report recommended many changes in 1928 that were to occur in the 1930's and 1940's. The 1950's saw a revival of the philosophy of the report. Many of the recommendations made thirty years ago are still appropriate today, and still untried. Actually Congress, although its members praised the study highly, did not consistently support the Bureau in the attempt to carry out the recommended changes.

The Meriam study was not a revolutionary document. Most of the recommendations made were not original with the survey team, but were present in earlier studies, annual reports, and recommendations to Congress. Probably the greatest service of the Meriam report was to bring the material together, organize it, and present it as one comprehensive document, done by a competent private agency, and having no political implications. It was a document that all who were interested in the Indian were able to rally behind: Congress, the Bureau, the reformers, and the general public. It was to be a bible for Indian administration.

The team appointed by President Hoover to carry out the recommendations of the report consisted of three illustrious gentlemen who were sincerely interested in the welfare of the Indians: Ray Lyman Wilbur, formerly president of Stanford University, editor and social worker, was named Secretary of the Interior; Charles J. Rhoads, Quaker humanitarian, wealthy Philadelphia banker, member of social service organizations and president of the Indian Rights Association, was named commissioner; and J. Henry Scattergood, also a Quaker, treasurer of Bryn Mawr College, interested in social service and member of the Indian Rights Association, assistant commissioner.

B. Wilbur's Policy

Secretary Wilbur was the more impulsive of the three. Almost immediately after appointment, largely following the Meriam report's recommendations, he issued a statement of the Indian policy his administration would follow.[1] A New York Times editorial warned against trying to move too rapidly, suggested that education was not a cure-all for the Indian problem, and reminded the secretary of the results in Oklahoma and New Mexico when Indians were given full responsibility too soon.[2]

The Board of Indian Commissioners commented that this new policy "to make the Indian a self-sustaining, self-respecting American citizen just as rapidly as this can be brought about" should meet with the "general approval of fair-minded, forward-looking friends of the Indian people," then went on to make some criticisms and to plead for caution:[3]

> [Former administrators] learned that all the methods they found in use when they grappled with the Indian situation should not be thrown into the scrap heap, and that they got further through the slower process of evolution rather than by adopting drastic changes in policies and programs.

Commissioner Rhoads also had reservations in regard to the accelerated program outlined by Wilbur, but there was never any open difference of opinion expressed.[4] For official publication Wilbur's plan for rapid transfer of the responsibility for the Indian to the states and the elimination of the necessity for a Bureau of Indian Affairs within twenty-five years continued to be a basic element of Indian policy. Rhoads quietly went about his duties, acquiring additional land for tribes needing it, trying to eliminate reimbursable debts, to reorganize irrigation, strengthen the programs in education and health, and to improve Bureau personnel at every opportunity.

C. The Rhoads-Scattergood Team

Rhoads and Scattergood were both cautious. They proceeded slowly, trying to determine exactly what the results would be before recommending changes. Probing continually, they made many recommendations to Congress which failed then to be enacted into law, but were later incorporated into the Indian Reorganization Act.

Both John Collier and Harold L. Ickes were jubilant when they learned of the Rhoads-Scattergood appointment and actively cooperated with the Bureau until they became dissatisfied with the rate of progress shown. Commissioner Rhoads had accepted his appointment reluctantly. After several months of conscientious effort he confessed that "the appointment as Commissioner of an experienced business executive with little knowledge of Indian affairs and in consequence, no preconceived ideas might be excellent in theory but not so good in practice."[6] He was overwhelmed by the intricacies of the Indian situation and "the mass of detailed information necessary to arrive at even a reasonable understanding of all its complexities."[7]

D. The Four Memoranda

In the four memoranda mentioned in the previous chapter Rhoads outlined four specific problems that he saw in Indian administration: (1) Reimbursable debts, (2) Better methods of safeguarding Indian properties (incorporation, increasing power of tribal councils), (3) Settlement of Indian claims, and (4) Reclamation and irrigation of Indian lands.

The problems pointed out by Rhoads were some of the most difficult and fundamental in Indian affairs. The publication of the American Indian Defense Association (John Collier, editor) referred to Rhoads' action as an exploration into formerly "forbidden ground," and "an epoch in Indian history."[8] Each was to prove itself a knotty problem. Only in the case of reimbursable debts was Rhoads to enjoy real success. July 1, 1932, the Leavitt Act was passed,[9] eventually freeing the Indians of liens on allotted lands totaling many millions of dollars. They had never requested, and received little benefit from, some of the projects charged against them.

E. Irrigation and Reclamation

In regard to irrigation and reclamation, the Preston-Engle Report had recommended (1) Cooperation with the Bureau of Reclamation and transfer of large Indian irrigation project to Reclamation; (2) Reorganization of Indian irrigation services, and (3) Abandonment of useless projects.[10] Secretary Wilbur had recommended transfer of Indian reclamation to the Bureau of Reclamation. Rhoads stopped the transfer and would not agree to the abandonment of projects. He felt that the cause of the Indian would be better safeguarded if the Bureau retained control.

It is interesting to observe the stand taken by the American Indian Defense Association during this period in their publication American Indian Life. John Collier as executive secretary of the association and editor of the publication was an untiring critic. His position in regard to transfer of functions to other federal agencies seems to me to have changed appreciably after his appointment as commissioner.

F. Allotment and Heirship Lands

It was in his attempt to remedy some of the evils of allotment and heirship land problems that Rhoads mentioned the possibility of a bill modeled after the McNary Bill to incorporate the

Klamath tribe as a means of teaching the Indian to manage his own property and his own business affairs.[11] Such a tribal corporation would act through an elected board of directors and be governed by Indian shareholders.

This arrangement, first suggested in the Meriam report, was referred to by the American Indian Defense Association as "the most pregnant bill affecting Indians that has been introduced for many years."[12] Vera Connolly reported that tribal incorporation was something "which most of those who love the Indian race seem, today, to approve."[13] This was in 1929. From 1929 to 1933 the incorporation idea gained ground, although it was not to achieve legislation during this administration. The idea was, of course, basic to the Indian Reorganization Act.

Rhoads also recommended that a special claims commission be created to hear claims of individual Indian tribes against the United States. It had been suggested that at the current rate of progress it would take a hundred years for the Court of Claims to hear cases needing ajudication. Various studies of the Indian problem made during the 1920's made recommendations similar to those of Rhoads, whose recommendation was similar to that found in the Meriam report. Representative Scott Leavitt in January, 1929, introduced a bill (H.R. 7963) to create a United States Court of Indian Claims,[14] but there was no action taken by Congress on the bill. This, like other recommendations of Rhoads, had to wait several years to reach fruition.

G. Improved Health Program

Rhoads discovered that the solution to the problem of Indian health required more than the voting of funds by Congress. Paraphrasing the Meriam report, the eventual solution of the Indian problem would require education, in the broadest sense. Before doctors and hospitals could be of any use to Indians, they had to learn to appreciate what medical practices and facilities could do to improve their lives.

The Meriam report had recommended more and better doctors, more and better qualified nurses, clinics on all reservations, more emphasis on disease prevention, instruction in hygiene, collection of reliable vital statistics, and closer cooperation with state and local health agencies.[15] To make closer cooperation possible the Act of February 15, 1929, ordered the Secretary of the Interior to allow state employees and agents to enter upon Indian lands

> ...for the purpose of making inspection of health and educational conditions and enforcing sanitation and quarantine regulations or to enforce compulsory school attendance of Indian pupils...[16]

There was close cooperation between the Bureau and the Public Health Service during this administration. The recommendations of the Meriam report were followed in relation to the improvement of personnel and facilities. Accurate collection and tabulation of vital statistics were given more attention. There was an effort to teach personal hygiene and disease prevention. There was real progress in federal-state cooperation to solve the Indian health problem.

In attempting to evaluate the progress made in relation to improvement of Indian health during this administration, one might say that the recommendations of the Meriam report were followed and that Indian health conditions were improved but that there was still need for further improvement in regard to every recommendation made.[17] One might safely say the same thing today, after twenty-five years.

H. Progress in Education

In education there was evidence of real success during the Rhoads administration. Personnel were upgraded until the staff was said to compare "favorably with the corresponding groups in such progressive and effective professional government agencies as the Children's Bureau, the Bureau of Home Economics and the Office of Education in the Interior Department."[18] There was close cooperation between the Bureau and the states. Attendance at public schools was encouraged for Indian students whenever possible. The movement from boarding schools to day schools was encouraged where feasible. Inadequate food, overcrowding and child labor were largely corrected in the boarding schools that remained.

I. Employment Program Attempted

There was an attempt to make vocational training more practical. To bridge the gap between learning and application, a new Guidance and Placement Division was created.[19] There was an appropriation of $50,000 in 1931 to supply means of securing remunerative employment. This was increased to $60,000 for fiscal 1932 and 1933. With employment agencies at Phoenix, Arizona, and Minneapolis, Minnesota, and a placement officer at

Salt Lake City, 2,497 placements were made during 1931-1932. Nine hundred and ninety-five of these were classified as permanent. Indian Service placement activities were coordinated with those of some cities, states, and of the United States.[20] After such an auspicious beginning, the depression and non-Indian competition for available jobs brought an end to the experiment.

J. A Modern Extension Program

Having obtained the services of Dr. Erl Bates of Cornell University for one year to study and make recommendations in relation to extension work among the Indians, this program was reorganized and a new Division of Agricultural Extension and Industries was established. Under the leadership of Agricultural Specialist A. C. Cooley more up-to-date procedures were developed. The purpose of the new division was to render to the Indians "the kind of technical and practical assistance that will be helpful to them in becoming more self-supporting through their own efforts and thus more reliant."[21] Although, as the Senate Investigation Subcommittee discovered, all extension problems were not solved, this was the beginning of modern extension work in the Bureau.

K. Federal-State Cooperation

There had been departmental and Bureau encouragement of closer federal-state cooperation for several years prior to the Rhoads-Scattergood administration. Members of Congress and state officials of California, Montana, and Wisconsin had expressed willingness to cooperate with the Bureau in relation to Indian health, education, and welfare particularly. Separate bills had been introduced for federal cooperation with each of these states.[22]

In 1930, the Swing-Johnson bill (S. 3581, H. R. 9766) was introduced applying to all states with Indian population.[23] This had departmental and Bureau endorsement. As explained by Senator La Follette of Wisconsin its purpose was to allow the Secretary of the Interior "to enter into contractual relations with certain state agencies when the legislature of the State has passed an enabling act providing for the extension of those services to the Indians through the agency of the State Boards of health, education and so forth."[24]

The bill passed the Senate but failed to pass the House. Introduced in the next Congress it again passed the Senate but failed to be voted on in the House. Although action similar to this had been requested by the Department of the Interior, the Bureau, reformers, Congress, the Meriam survey team, and others, over several years, Congress failed to support these recommendations until 1934, when the Johnson-O'Malley Act was passed.

L. Background to Reorganization

Now, using the words of John Collier let us see how he felt the actions in Indian affairs, of the 1920's and of the Wilbur-Rhoads-Scattergood administration, served as a background to the Indian Reorganization Act:[25]

> All workers for and with Indians, by 1922, were convinced, obscurely or explicitly, that unless the philosophy in Indian matters could be changed, and the system of Indian affairs be reoriented and reconstructed, the tribes and their members were doomed. Therefore, from 1922 forward, while many particular struggles were waged, by the Indians and their white friends, the controlling preoccupation was that of discovering a new philosophy, and of impressing a changed orientation and structuring, in the Federal-Indian relation. Effort for and by Indians became, to use an important current concept, problem-centered; and upon this problem of how to achieve a new orientation, first intellectually and then politically and legislatively, the work of the Indians and their friends became concentrated.
>
> The solution was pursued through litigations, particularly those which were related to the Pueblo land situation, a situation whose roots were in the Joseph decision of 1871; through researches into the history of Indian land tenure and use; researches into the history and the then-status of Indian indebtedness to the Government, totaling around $60 million in the 1920's; researches historical and anthropological into the Indian organizations as they had existed, and still existed in limited regions, and into the effect upon Indian social energies of the destruction of the Indian organizations; and researches into the conditions of the Indian resources-base, and of the wastage, within the concept voiced to Congress by the Assistant Commissioner of Indian Affairs in 1917, that since the Indians were by policy being liquidated, their forest, soil, and water resources should not be conserved but liquidated. I mention only two or three names of individuals and groups, the movers in these endeavors. One name is that of Richard H. Hanna of New Mexico, who handled the Pueblo land litigations and subsequently, researches into aboriginal occupancy in Alaska; Congressman James A. Frear of Wisconsin and Senator William H. King of Utah, who brought genuinely first-rate intellects to bear upon the

whole reach of the Indian's problems; the American Indian Defense Association, from 1923 onward; Nathan R. Margold who studied with profound attention and creativeness the vast subject of Indian claims against the Government; the Senate Investigating Committee in the years 1927 to 1932; and the Brookings Institute, which produced in 1928 the monumental Meriam and Associates Report on the Problem of Indian Administration. A word about the last-mentioned research. It cast decisive illumination upon Indian education, Indian health work, Indian income and living standards, and the deficiencies of Indian Service, while leaving somewhat vague the core subjects of Indian land tenure and Indian tribal or corporate organization.

I will now try to summarize the conclusion to which all of the 12 years of consultation, research, and practical effort tended. Largely, these results have become verbalized into official utterances before the end of the Herbert Hoover presidency and the Wilbur-Rhoads-Scattergood Indian administration, 1928-33. (underlining mine.)

1. The new Indian policy must be built around the group-dynamic potentials of Indian life. This meant an ending of the epoch of forced atomization, cultural prescription, and administrative absolution, and an affirmative experimental search for the power abiding within Indians, waiting for release through the en-franchisement or the recreation of Indian grouphood.

2. The monolithic Federal-Indian administration with stereotyped programs for all Indians everywhere, must be changed over to become flexibly adapted and evolving administration, fitted to the cultural, economic, geographic and other diversities of the Indians, which the generations of the steam roller had not been able to flatten out.

3. In place of an Indian Bureau monopoly of Indian Affairs, there must be sought a cumulative involvement of all agencies of helpfulness, Federal, state, local and unofficial; but the method must not be that of simply dismembering the Indian Service, but rather of transforming it into a technical servicing agency and a coordinating, evaluating, and, within limitations, regulatory agency.

> 4. Finally, and most difficult to state in a few words, the conclusion emerged, that the bilateral, contractual relationship between the government and the tribes (the historical, legal and moral foundations of Government-Indian relations) must no longer be merely ignored and in action thrust aside and replaced by unilateral policy-making. Rather, instrumentalities must be revived, or newly invented, to enable the bilateral relationship to evolve into modern practicable forms--forms through which the "group-life-space" of the tribes could shift from the exclusively governmental orientation toward an orientation to the American commonwealth in its fullness. I state this last conclusion rather ponderously and abstractly; but at the very core of the Indian Reorganization Act, precisely, is the revival, and the new creation of, means through which the Government and the tribes reciprocally, mutually, and also experimentally, can develop the Federal-Indian relation, and the Indian relation to all the rest of the Commonwealth, on into the present and future.

As I interpret the words of Collier, he is saying that the Indian Reorganization Act was a bringing into legislative being, and giving legal definition to what had been voiced by such studies as the Meriam survey and had "become verbalized into official utterances," but not given the support of Congress, before the beginning of his own term as Commissioner of Indian Affairs. In other words, I believe we will find as we examine the Indian Reorganization Act that it synthesized legislatively (as the Meriam study had documented verbally) the administrative strivings of the previous decade. It took the work of a trained propagandist and the opportunity of Franklin D. Roosevelt's new depression administration to get through Congress what the reformers, the administrators and members of Congress themselves had been asking for during the previous decade. A few years later Collier was hard-put to get the same members of Congress to admit they had any part in the creation of the "New Deal for the Indians."

The Rhoads-Scattergood term in the Indian office resulted eventually in greater contributions than could be seen at the end of their four years of service. The coming of the depression was unfortunate for the Rhoads-Scattergood Indian program as well as for the political reputation of President Hoover.

FOOTNOTES

III

[1] Annual Report, Board of Indian Commissioners, 1929, pp. 3-4.

[2] The New York Times, April 28, 1929, III, 4:5.

[3] Annual Report, Board of Indian Commissioners, 1929, pp. 3-6.

[4] The New York Times, July 4, 1929, 14:3.

[5] Downes, "A Crusade for Indian Reform," p. 345.

[6] Edward Everett Dale, The Indians of the Southwest (Norman: University of Oklahoma Press, 1929), p. 155. "Report of Personal Interview."

[7] Ibid.

[8] "Five Epoch Making Announcements Concerning Indian Law," American Indian Life, Bulletin 15 (January 1929), 13-14.

[9] U.S. Statutes at Large, XLVII, 564, "Act of July 1, 1932."

[10] Preston-Engle Report, cited above in Senate Survey of Indian Affairs.

[11] Waldecker, "Administrative and Legislative Reforms in American Indian Relations," p. 60.

[12] American Indian Life, Bulletin 14 (May, 1929), 13-14.

[13] Vera Connolly, "The End of the Road," Good Housekeeping, 88 (May, 1929), 44-45.

[14] Congressional Record, 71st Congress, 2d Session, (January 1930), p. 1139.

[15] Meriam, op. cit., p. 270.

[16] U.S. Dept. of the Interior. Federal Indian Law (Washington: Gov't Print. Off., 1958), p. 507. See also 45 Stat. 1185, 25 U.S.C. 231.

[17] Senate Survey of Indian Affairs, part 17, (1931) pp. 8419, 8175,

8444, 8261, 8079, 8799, 8528, 8160; part 23, (1932) 12877; part 30, (1934) pp. 16458.

[18] Lewis Meriam, "Indian Education Moves Ahead," The Survey, LXVI (June, 1931), 253-257.

[19] Waldecker, "Administrative and Legislative Reforms in American Indian Relations," p. 89.

[20] Annual Report, Secretary of the Interior, 1932, p. 15.

[21] Congressional Record, 71st Congress, 3d Session, (March 1931), p. 7262.

[22] "The States Aroused on Their Indian Problems, "American Indian Life, Bulletin 11 (December-February, 1928), 4. See also U.S. Senate, Indian Affairs Committee, Hearings, Funds Appropriated for Care and Relief of Indians Shall be Expended Through Certain Public Agencies of California, Wisconsin, and Montana, on S. 3020, S. 3611, and S. 5498. 69th Congress, 2d Sess., Feb. 10, 1927.

[23] Congressional Record, 71st Congress, 2d Session, (1930), pp. 3492, 3635.

[24] Ibid., p. 8502.

[25] John Collier, "The Genesis and Philosophy of the Indian Reorganization Act," taken from William H. Kelley, ed., Indian Affairs and the Indian Reorganization Act: The Twenty Year Record, (Symposium, 52nd Annual Meeting, American Anthropological Association, Tucson, Arizona, December 30, 1953), pp. 4-5.

IV. THE "NEW DEAL" FOR THE INDIANS, 1933 to 1945: ESTABLISHMENT AND ACCEPTANCE

A. Background

After the panic of 1929 a general depression swept the nation. Many factories closed. Others cut production, reduced wages and dismissed workers. Bank failures rose into thousands by election time in 1932. Agricultural prices declined to fifty per cent of their 1929 value. Surplus farm products accumulated in warehouses. Unemployed workers estimated at three million in 1930 had risen to about twelve million in 1932, when the employment program for the Indians was discontinued.

President Hoover at first took the traditional view that providing for relief was a problem for state governments and local communities. By the end of 1930 the financial resources of some of our wealthiest states and cities were virtually depleted. It became apparent that the national government would have to step in with its tremendous resources to meet the situation. The last two years of the Hoover administration were devoted largely to developing means of fighting the depression.

It was against this background that John Collier took office as Commissioner of Indian Affairs in 1933. Professionally involved in the Indian reform movement since 1922, for ten years as the executive secretary of the Indian Defense Association, and for seven of those years as editor of the magazine American Indian Life, Collier brought an unusual background of experience with Indian matters to the commissionership. He was to have twelve years in which to effect the reforms he had been advocating. This was an unprecedented term in the office.

As we examine the changes that occurred during the first years of the Collier administration, it is important to keep the situation that prevailed in the nation in mind. It would be difficult to imagine a more advantageous time to recommend that Indians remain on their reservation and practice subsistence farming and livestock raising.[1] With no demands for the unallotted and unoccupied lands formerly a part of the reservations, why not return them to the Indians? What better time could have been selected to stop the allotment processes? This certainly would not have been the time to suggest a termination or a relocation program, either of which would have added to the strain on state and local government.[2]

It is interesting too, that those Indians who had started the assimilation process by leaving the reservations and becoming wage earners were hurt most by the depression, while those living in permanent villages or settlements and who depended on subsistence farming for a livelihood were hurt least.[3]

Collier knew the Indians of the southwest best, and of the Indians of the southwest he was most closely acquainted with the Pueblo Indians. As we proceed to an examination of the Collier administration and of the Indian Reorganization Act, it may be well to ask ourselves occasionally, if it is not best suited to Indians who have reached about the stage of acculturation represented by tribes still largely dependent upon reservation resources, rather than the more acculturated groups, such as the Five Civilized Tribes of Oklahoma.

Having been a leading critic of Indian Administration for eleven years, John Collier was well informed in regard to what had been recommended to Congress by the Burke and Rhoads administration. Where they had failed he would succeed. He had been instrumental in encouraging Secretary Work to engage the Institute for Government Research to undertake the study of Indian administration, and knew its recommendations well.[4]

B. Beginnings

In an article titled "The Details of the Reorganization On Which the Indians Wait," Collier suggested some of the reforms that needed implementation, including: the encouragement of tribes to form councils to manage community affairs, legislation enabling Indian tribes to form corporations for business purposes, and the creation of a revolving fund to supply credit to Indians. None of these were new ideas, but in this article, published three months before his appointment, he projected a program that would see these ideas translated into action.[5]

William F. Zimmerman, Jr., was appointed assistant commissioner. Let us allow him to describe the beginnings of the Collier era:[6]

> Even after twenty-four years it is still easy to relive the first months of the new administration. There were endless meetings, inside and outside of working hours. In the evenings we sometimes met at Collier's apartment, which was so sparsely furnished that some would sit on the floor. On a bright Sunday morning the meeting might be

on a grassy point in Potomac Park. There was zest and fun in those meetings, but also always a sense of urgency, of fighting time, of doing things now, before it should be too late; but there was always a feeling of accomplishment.

Very soon a new voice was strongly heard in Indian meetings. Felix Cohen did not come to Washington to make himself the foremost student and exponent of Indian law; he became that almost by accident. Yet he was soon heard not only on legal problems, as in drafting the original Wheeler-Howard bill, but also on the countless issues which involved both law and policy. Day after day, month after month, his thoughts and his voice kept the bureaucrats in line. Never were they allowed to lose sight of the ultimate objectives.

Another powerful stimulus was Harold Ickes. In those first months before the tentacles of bureaucracy took hold, it was almost a daily routine for Mr. Collier and the Assistant Commissioner, each morning before nine, to dash up two flights of stairs to the Secretary's office and tell him quickly about the newest problems or get an answer to a vexing question. By the time Mr. Ickes became adequately insulated, the new bureaucrats, too, knew more about protocol and procedure; but they lost the fresh, friendly, informality.

C. The First Year

This new administrative team acted immediately to accelerate the Rhoads program of transferring children from boarding schools to community day schools. These day schools were also made to serve as social centers involving all age groups and the entire population. Again following earlier precedents, the remaining boarding schools became institutions for special classes of Indian children having peculiar problems best answered by this kind of program.

Following precedents of some ten years the commissioner encouraged the practice of Indian customs and religion, but put teeth in it by issuing this statement:[7]

> No interference with Indian religious life or expression will hereafter be tolerated. The cultural history of Indians is in all respects to be considered equal to that of any non-Indian group. And it is desirable that Indians be bilingual--fluent and literate in the English language, and fluent in their

> vital, beautiful, and efficient native languages***. The Indian arts are to be prized, nourished, and honored.

He was careful to point out that this did not mean that there was "any intention of interfering unduly with intelligent and devoted mission effort on the part of Catholic or Protestant workers in the Indian field."[8]

A terse entry in the Congressional Record, May 25, 1933, announced the abolition of the Board of Indian Commissioners, after a life of sixty-four years.[9]

> Pursuant to the provisions of section 1, title III, of the act entitled "An act to maintain the credit of the United States Government," approved March 20, 1933, I am transmitting herewith an Executive order abolishing the Board of Indian Commissioners.
>
> There is no necessity for the continuance of this Board, and its abolition will be in the interests of economy.
>
> (Signed) Franklin D. Roosevelt

The Board had traditionally been a very conservative group. Possibly they were a source of irritation to the new administration. The occurrence was not mentioned in the secretary's annual report.

The intention to provide employment for Indians in the Indian Service was early accented by his appointment of Wade Crawford, himself a Klamath Indian, as superintendent of the Klamath Indian Reservation. By the end of June, 1934, there were 489 new appointments of Indians to the Indian Service. There were then 5, 325 persons holding classified positions in the Service of whom 1, 785 were Indians.[10]

Under an act of Congress passed March 31, 1933, the Civilian Conservation Corps (CCC) was established. With President Roosevelt's approval seventy-two work camps in fifteen western states were assigned to the Indians, to be administered by the Bureau. The Indian counterpart of the CCC was first referred to as Emergency Conservation Work (ECW). Almost half of the available openings were filled by Indians in November, 1933. Half of the supervisors were Indians by June, 1934.[11] The Commissioner's experience with the use of Indians on these projects gave him confidence in the Indians willingness to work and ability to work together.

The spree of issuing Force-Patents that began in 1917 began to slow down in 1920. Gradually during the 1920's more restrictions were placed on the issuance of fee patents. During 1928 and after, it was recommended that the loss of Indian lands be halted. In August of 1933, a letter went out from Secretary Ickes to all superintendents stopping further sales of Indian allotments and recommending against further issuance of fee patents.[12]

Even before the Indian Reorganization Act was a legislative reality the patterns that Collier would follow began to take shape. There was evidence during his first year in office that Commissioner Collier was able to reach decisions and act upon them without delay.

On April 16, 1934, Congress at last enacted legislation providing for federal-state cooperation in Indian affairs. This had been requested by the Bureau and by such states as California, Montana, and Wisconsin for almost a decade. The Johnson-O'Malley Act allowed the Secretary of the Interior to enter into contracts with states, territories and private institutions "for the education, medical attention, agricultural assistance, and social welfare, including relief of distress of Indians in each State or Territory, through the qualified agencies of each State or Territory."[13]

By an act of May 21, 1934, certain discriminatory federal laws of early origin allowing military and civil control within reservation boundaries and hampering freedom of speech were repealed. The Indian liquor law and the law prohibiting the sale of firearms to Indians remained in force.[14]

D. The "New Deal" Establishment

June 18, 1934, by passing the Indian Reorganization Act, Congress at last recognized what had been discussed and recommended by reformers, research studies, and the Bureau of Indian Affairs for a decade. More unique than the legislation itself was the procedure followed in preparing the original bill.

Collier felt strongly that the Indians themselves should be allowed to express their opinion in relation to the proposed legislation, and that finally they should have the privilege of voting on whether they would choose to accept the legislation on behalf of their tribe or not. To make this possible a series of six Congresses were held in areas where Indian population was concentrated.[15]

The parts of the proposed bill were read and explained to those present. Questions were asked for, and the Indians were asked to give their views. The representatives of the various Indian tribes were not anxious to commit themselves or the people they represented. They only wanted to listen, then the message would be carried to the people at home. There time could be found to talk. Decisions would come after the talks.[16]

While these Congresses with the Indians in their country were being held, extensive hearings were in progress before the Indian committees in Congress. There were mixed feelings. No one, including Collier, was certain that this was the best answer. At one point during the hearings he stated, "We feel profoundly that something must be done, though we are not prepared to assert that this is the bill."[17]

Committee members objected to various specific items in the bill, but beyond suggesting item deletions they seemed unable to improve the general approach to the problem. One of the major concerns expressed during the hearings and since is whether the attempt to reorganize tribes whose membership had largely made the external adjustment to life in non-Indian communities was a step forward or backward.[18] Most scholarly studies of the Collier administration still shy away from conclusions in regard to this.

The Indian Rights Association felt that a serious weakness of the bill was the fact that it would treat all Indian groups alike, although their differences were well known. While Collier expressed the feeling that the enactment of the measure would gradually lead to the assumption by tribal groups of their own community and resource management problems, the Indian Rights Association felt that the Secretary of the Interior and the Commissioner of Indian Affairs were, by retaining too much of the real governmental authority, accomplishing little actual "self-government."[19]

It is interesting that the representative of the Menominee Indians favored the bill because it would give them a chance to manage their own affairs, but a study made in 1950 of the effect of the Reorganization Act on the Menominee found that they had actually refused to assume the responsibility for the management of their resources and were satisfied to act as critics of Bureau management.[20]

Actually about the only part of the bill that was generally accepted was the section dealing with education. Both Indians and committee members expressed themselves strongly against the provisions concerning the reversion of land from the individual to the tribal estate. The section asking for the creation of a court of Indian affairs also drew heavy criticism.[21] Collier was ready to compromise when he saw that criticism of a particular section might endanger the entire bill.

A questionnaire was sent to some of the nation's leading anthropologists asking whether they felt the Indian people were able to benefit from and progress under the provisions set forth in the bill. The responses to Commissioner Collier's inquiry were unanimously in the affirmative.[22]

There were occasions when it appeared that the entire bill would be lost or tabled for an indefinite period awaiting further study. Secretary Ickes and President Roosevelt both gave personal support to the measure at critical times. During his first term particularly the President had very strong congressional support. Without this complete executive backing of what was presented as an administrative measure, it is believed that the bill would have been seriously crippled or would have failed to be enacted.

Let us refer to a brief statement by John Collier relative to congressional action on the measure:[23]

> 1. The Indian societies were to be recognized, and be empowered and helped to undertake political, administrative and economic self-government.
>
> 2. Provision was made for an Indian civil service and for the training of Indians in administration, the professions and other vocations.
>
> 3. Land allotment was to be stopped, and the revestment of Indians with land was provided for.
>
> 4. A system of agricultural and industrial credit was to be established, and the needed funds authorized.
>
> 5. Civil and criminal law enforcement, below the level reached by federal court jurisdiction, was to be set up under a system of courts operating with simplified procedures and ultimately responsible to the tribes.
>
> 6. The consolidation of fractionalized allotted lands, and the delivery of allotments back into the tribal estate, was provided for under conditions which safeguarded all individual property rights and freedoms.

> The first four parts of the Reorganization bill, as listed, became law. The fifth and sixth parts were lost. The fifth part may have been fortunately lost, because the tribes, under the enacted parts of the bill and under court decisions defining the unextinguished, inherent powers of Indian tribes, are coping with law and order more effectively with each passing year. But the loss of the sixth part was a major disaster to the Indians, the Indian Service, and the program. Congress has not yet righted that blunder of 1934. The fractionalizing of allotted Indian lands rushes on; the real estate operation of leasing these atomized parcels and collecting and accounting for and paying out the hundreds of thousands of vanishing incomes becomes increasingly costly, and increasingly a barrier against productive work or thinking in the allotted jurisdictions; millions of their best acres remain unusable to the Indians.

Senator King of Utah had acknowledged a fear that the bill as written "would perpetuate for an indefinite period an expensive and bureaucratic organization which in its operation would lead to ennervate rather than elevate the Indians."[24] This sentiment provided a background for future congressional action in regard to the bill.

E. The "New Deal" Perspective

Since the Indian Reorganization Act is a basic document to our study let us allow Theodore H. Haas to outline the important provisions contained in it and to examine it in perspective:[25]

> The IRA became operative through the majority vote by members of a tribe at a formal election. It ended the allotting of tribal lands and the process of terminating trust period or period of restricted alienability, after a fixed period of years. It also placed severe limitations on the operation of allotment in other respects. It recognized the inadequacy of the Indian land base, authorized the appropriation of $2,000,000 a year for the purchase of lands for tribes, and generally limited the disposition of restricted land to Indian tribes and their members. It also empowered tribes incorporated under the Act to make consolidations of fractionated lands, with the owner's consent, and provided for the purchase and restoration of land to Indians.
>
> During the ensuing ten years Indian land was increased from about fifty-two million acres to more than fifty-six

million acres by governmental and tribal land purchases and by the restoration of land to Indians under the Act and by supplementary legislation.

Another important feature of the IRA is that it directed the Secretary of the Interior to promulgate conservation regulations to prevent the erosion, deforestation and overgrazing of Indian lands.

Since 1948, however, there has been a resumption of the prior downward trend, accelerated by the issuance of patents in fee under the Act of May 4, 1949, which authorized the Secretary of the Interior to sell individual Indian lands, and by special enabling acts.

The Act of August 9, 1955 (69 Stat. 539) greatly increased the term for which Indian-owned land may be leased.

The IRA sought to reinvigorate and stabilize the powers and organization of Indian tribes. It gave the official governments standing by providing for the approval of constitutions and also of charters, if desired for business purposes. It vested also in tribes which adopted such constitutions the following new powers: approval or veto over the disposition of all tribal assets; the right to spend certain funds; to negotiate with the federal, state, and local governments, to employ legal counsel, only the choice of counsel and the fixing of fees being subject to the approval of the Secretary of the Interior; and to see appropriation estimates for the tribe's benefit prior to their submission to the Budget Bureau and Congress. Some of these powers were subject to various degrees of supervision by the Secretary of the Interior.

The constitutions add to, but do not detract from, the powers of an Indian tribe. The laws, customs, and decisions of tribal government control large areas of civil and criminal law, including questions of tribal membership, property, taxation, the conservation, development, and use of tribal resources, social welfare, domestic relations, health, housing, inheritance, and the form of tribal government. The courts have fairly consistently upheld the Indians' right to home rule. One of the most recent decisions in this field sustained the right of the Oglala Sioux Tribe to pass an ordinance taxing a non-Indian lessee of a grazing allotment and a criminal ordinance covering offenses by Indians against Indians and enforced by the tribal court.

Program

The IRA authorized the establishment of a revolving credit fund which has enabled thousands of Indians to become rehabilitated by providing the means for them to apply modern technology in the use and development of their land and other resources. For the purpose of borrowing and lending money, many tribes adopted federal corporate business charters under the Act which enabled them to make contracts, to sue and be sued, and relend to individual Indians. While most loans have been made for agricultural, livestock, or fishing purposes, a variety of projects have been financed, including stores, salmon canneries, motels, and arts-and crafts-producing and selling organizations. In recent years, the number and amount of loans have decreased due in part to an increased availability of private credit.

The Act of March 29, 1956 (70 Stat. 62) authorized the execution of mortgages and deeds of trusts on individually owned trust or restricted land in order to stimulate an increase in such credit.

The IRA also authorized annual appropriations not exceeding $250,000 for educational loans and directed the creation of an Indian civil service under which qualified Indians shall have the preference to appointment of vacancies in any position in the Indian Office.

The IRA encouraged cultural diversity, a part of the essence of democracy, in lieu of a pattern of Indian administration emphasizing undeviating conformity, the essence of the philosophy of communism. Each Indian group was able to administer its own assets, by leasing and conserving its land and spending some of its moneys, and to pass laws for local public services. As leases for oil, gas, uranium, and for other purposes have vastly increased the income of some tribes, several tribal councils have established revolving credit funds with their own moneys and set up trust funds to provide college scholarships for their younger members. The total amount of tribal funds used for credit purposes now exceed the amount of federal funds so used.

Some of these functions have been performed in cooperation with federal, state, and local governments. The Indian civil and criminal laws have been influenced by federal and state laws; and their courts have granted bail, parole, probation, and suspended sentences and applied other features of modern laws. The Indians have gained experience in a transitional legal system between their unwritten laws and customs and the white man's more formalized system of justice. They have learned also of legislative and administrative procedures; written constitutions and laws; majority rule; budgets; accounting; public relations; and lobbying in the Congress, Indian Bureau, and Interior Department. They discovered too that despite differences in customs, histories, and organizations, many of the problems of one tribe are similar to those of other tribes, and that national, state, and local organizations are as necessary for Indians as for non-Indians. They gained some experience also in business organizations and methods by forming and dealing with corporations, cooperatives, and credit operations. They have been provided with stepping-stones toward more economic and governmental responsibilities through their own or other local governments.

At the heart of the Indian Reorganization Act, in the words of John Collier, was the intention that[26]

> ....the grouphood of Indians, twenty thousand years old in our hemisphere, should be acknowledged as being the human and socially dynamic essential, the eternal essential, and into the future as of old. It should be grouphood culturally, as rooted in the past as the group at issue--each group among the hundreds--might desire, and as modern, American-oriented and implemented as the group at issue might desire. Definitely, finally, cultural determination for Indians was not to be a function of governmental authority from this time forth.

Theodore H. Haas, also discussing the Indian Reorganization Act twenty years after, states its purpose or philosophy in more precise terms:[27]

> The philosophy of the IRA, which Professor Collier has discussed with his usual brilliance of analysis and style, was to end the autocratic rule of the Bureau of Indian Affairs by extending to the Indians the fundamental rights of local self-government and of opportunities for educational and economic assistance and the safe-guarding and conservation of their lands. Moreover, in the future the Indians would be consulted and their views followed, if feasible, in the formulation of new policy. The concentrated power of the Indian Bureau would be dispersed to other Federal, State, and local agencies, private organizations and to Indian governments themselves. In this way, an ancient policy agreed to by almost everyone of liquidating the Indian Bureau would be fulfilled gradually and orderly.

Perhaps in the last two sentences of the paragraph quoted above we have a key to the dissatisfaction that was to develop in Congress concerning the IRA in practice rather than in theory:[28]

> ....the constitutions provided for procedures whereby the tribes, or the Secretary of the Interior, or both together, could reduce the supervisory power of the Federal Government, and thus increase the tribal power. All but a very few of the charters provided for the termination of supervision automatically after a fixed date which has already expired at the date of this paper. In other cases, the Indians themselves, by popular vote, can fix the time when such supervisory powers expire, generally after 5 or 10 years of incorporation, but, in some cases, at such time as the Indians desired.

To illustrate how this might have operated, in a speech before the National Congress of American Indians in 1949, Mr. Haas pointed out to the Indians their opportunity for further freedom to manage their own affairs:[29]

> ....Yet only two tribes numbering together about 1,000 members, the Stockbridge-Munsee Indians of Wisconsin in 1948, and the Saginaw-Chippewa Indians of Michigan in 1949, have voted under their constitutions and charters to end the supervision of the Department of the Interior over several types of their leases and contracts. Why haven't more Indian tribes--including some of the members of your organization--sought the transfer from the Bureau to them of additional powers over the management of their own community activities? What is the National Congress of American Indians doing in this important administrative field--especially with regard to groups who denounce Bureau domination?

F. The "New Deal" and The Learned Critics

Various studies have discussed the failure of the Bureau of Indian Affairs to actually help the Indian groups to achieve self-government. Again, they do not find fault with the IRA in theory, but in its practical applications by Bureau personnel and in the failure of the Indian groups themselves to respond to the opportunity that is available to them. Let us examine some of the criticisms that have been often repeated:[30]

1. The IRA was put into effect too rapidly. Neither

Congress nor the Indians were adequately informed concerning it nor prepared for it.

2. Bureau personnel needed better training for application of provisions contained in IRA, some of which were quite foreign to their past experience and to their personal philosophy concerning the Indians.

3. Constitutions were not properly prepared for particular groups. The philosophy of the IRA itself was violated in that the Indians did not play a truly significant part in preparing these documents (Lack of qualified Bureau personnel). As a result the meaning of these instruments of government was often quite foreign to them.

4. Minority groups dislike being different from the majority, even if what they have, or are, is better than the majority.

5. The IRA was conceived by the Indian Service for the Indians. The community life patterns of some Indian tribes are not compatible with its principles. Programming must be done at the community level with Indian participation.

6. Probably because of administrative difficulties, some of the educational features of the IRA were not practiced, such as tribal review of Bureau budgets.

7. Promise and performance--plans and achievements tend to be very different.

After over twenty years of experience with the IRA it is found that some of the Indian groups that were more nearly assimilated in 1934 feel, as some did then, that any attempt to re-institute tribal institutions is a reversion. Examples of this attitude are found among the California and Oklahoma Indian groups and among the western Oregon bands. Some of the latter refer to having been terminated twice: once during the Force-patent period, 1917 to 1920, and the recent experience.

The following rather extended quotation is included as an example of the effect of the IRA on a group of Indians that had experienced relatively less acculturation. The particular reference is to the Ute Indians of the Uintah-Ouray Reservation in northeastern Utah. In discussing the application of the self-government principles of the IRA with the Sioux and with other tribes having a similar background, I find that they have experienced like difficulties:[31]

> Liberal, sympathetic administration of the Indians with a goal of self-determination came upon one sector of the Utes as just another device with which Indians were to be tricked by the government. When Utes gave their consent to a tribal self-governing body, it was with little understanding of the intent of such legislation.
>
> The leaders were all from one sector of Ute society, that of the mixed-bloods. To them, the new Indian legislation was the means by which they could attain self-respect. It was to give them political power which ultimately would put them on an equal basis with the whites. Occasional leadership supplied from the full-blood sector was usually not long-lived. Either the full-blood leader retired because of the consequent social isolation when he could not carry out his promises, or he was not re-elected. Those full-bloods who became members of the tribal business committee were in a sense different, and were already outside the Ute social life by living in the scattered households, away from the main streams of Ute social and informal political life.
>
> Because the full-blood leaders in the business committee were outside the general Ute social system, they were also even ineffectual go-betweens, and certainly not representative of the opinions of their constituents in interacting with their own group. Rather than being promoters of communication, they served as further insulating agents between agency tribal staff and Indians. They were insulators by virtue of being thought of as transmitters by the agency. Yet in reality they were never transmitting to their constituents the events, ideas, etc., of the agency, and consequently did not bring anything to their meetings, because of not knowing what were the feelings of most of their constituents.
>
> In spite of the good intentions of the Indian Reorganization Act, the structure of the Indian Bureau was so static, and the personnel so caught up in administrative detail, that the very act which was intended to give the Indians more freedom tended to increase hostility. The promises of self-administration and greater economic freedom seemed mere forms. Basically nothing changed in the structure of Indian administration. The business committee, presumably the self-administering body, still had to act under this supervision of the superintendent. He gave advice, and vetoed

all attempts to be truly self-determining, because the mistakes which the committee made were thought by him to be harmful. The idea that learning takes place by making mistakes was alien to him; and he had to make "good reports" to his superiors.

On the individual level nothing changed either, except in form. When an Indian wanted to buy or sell cattle, he still had to go through the lengthy process of getting permission from the reservation officials. Often the process was so drawn out, that the transaction, months later approved by the area office or Washington had become meaningless, and the length of time the tribal business committee used to take action because of all the "red tape" involved, discouraged those who attempted to take advantage of the Indian New Deal.

It is no small wonder then, that the Indian felt more and more that only immediate tangibles were to be trusted. Anything that required waiting, lengthy discussion, or planning was mistrusted.

These criticisms do not suggest to me that the theory of Indian self-government or of group responsibility and group privilege to make decisions without Bureau coaching or pressure is wrong. It does illustrate, however, the difficulties involved in guiding groups, for which the Bureau is administratively responsible, toward these long-range goals against a constantly changing political background involving new congressional committee memberships, with the accompanying shifts in local political pressures. It is difficult for legislators or administrators to philosophically accept the fact that culture change is a matter not of years but of generations, when each annual report requires an accounting for funds allocated.

G. Progress Under the "New Deal" For Indians.

Commissioner Collier and his staff made a genuine effort to acquaint themselves with methods of governing native peoples.[32] In various documents reference is found to Indian affairs in Canada, Mexico, and other of the Latin American Republics. The experience of the United States Army with the natives of the Phillipine Islands was gleaned for ideas.[33] Social scientists were called upon for advice and professional consultation.

Collier made a real effort, particularly at the beginning of his administration, to effect state and local participation with the nation and the Indian groups to work out local problems in the local area on a cooperative multi-lateral basis.[34] He had been personally advocating Johnson-O'Malley type legislation for a decade before that Act was passed.[35] The depression years were not an ideal time to convince states and counties that they should take on new problems. They were having difficulty making community "ends" meet. If the federal government wanted a state to give a service, funds would have to be forthcoming.

There was apparently some pressure on the Bureau to try to guide the Indians to provide for themselves as much as possible on the reservations, rather than having them compete with the already too-scarce positions in the non-Indian world. In addition to the CCC, special WPA and other federal projects were provided especially for Indians. Collier expressed some concern in relation to introducing a wage economy on reservations that could not furnish a permanent opportunity for wage work. As he put it, "After the depression is over and the emergency grants cease, what will happen to the now-working Indian?"[36]

His answer was to develop the reservation resources to the highest potential. Where possible, local industries were to be introduced. The encouragement of Indian arts and crafts fits naturally into the program. Indians could gradually shift from relief work to subsistence farming, native crafts, and the establishment of reservation industries.[37]

The Commissioner was reluctant to inflict emergency wage work on people such as the Hopi who had been managing to exist through good years and lean years for centuries before the then current depression:[38]

> Mr. Woehlke, Mr. McCaskill and I have been going over your letter of September 12 dealing with the problems of relief. We sympathize with your feeling that we tend to overlook the relief needs of the Hopis, on the other hand, they do represent one of the last strongholds of Indians who have been unspoiled by Government paternalism. It comes, therefore, as something of a shock to see summarized the extent to which wage work from Government projects has profoundly affected the Hopi people.
>
> It seems to us that any endeavor to meet the relief need through various improvement projects, the type you have outlined, may lead us back into those policies which according to your own document here have upset the thrifty customs and habits of the Hopis in recent years. That is, it is clear that through wage work the Government caused the Hopis to boost their standard of living probably as much as

> 50%. The agricultural resources as now used cannot support that sharply raised living standard, and now the Hopis are ceasing to think of their land base as a beginning and end of things and are endeavoring to maintain an artificial standard through (a) the sacrifice of their traditional reserves, while (b) hoping for the continuance of wage work through Government funds.

It was apparent to Collier that the relief programs were giving reservation Indians a better life than they had previously experienced. Better than they would be able to maintain with their available resources. He feared the adjustment that would necessarily have to come. World War II only served to postpone the day of reckoning. The post-war employment program was an attempt to meet the problem of those returning from the war by placing them in off-reservation jobs during a period of an open labor market. The idea of a permanent relocation program was a later development.[39]

During the early years of the administration a real effort was made to decentralize administration. The locale for decision making was to be as nearly as possible among the Indians involved in the decision:[40]

> If we are now gradually to divorce the Indian from Federal (Washington) control, we must recognize as a first necessity an entire changing of the old Indian Office policy of absentee control of the Indian affairs, and fit him for self-government on his Agency grounds, or in his Villages or Community, the same as the whites govern themselves in their villages and towns without outside detailed control. The progress is being started by the granting of Tribal Constitutions, and economic independence is being fostered by formation of Indian Corporations, Cooperatives, etc. But control is still very largely exercised by Washington and vigorous steps should be taken to break down this system and regional control and coordination should be established in lieu thereof. As the Tribes become fit for more control of their government or business affairs, the Regional Representatives should so report, and restrictions should be progressively relaxed by Washington, until finally abolished, and the Administrators withdrawn--replaced by Tribal authority or local Government, into which the Indian may have become absorbed.
>
> Two points among others of major importance in the Indian problem, in lieu of a multitude of details, might be

> receiving more attention by Washington. One is the problem of law and order on allotted Reservations, the other, the matter of local government on similar lands where whites, blacks, and Indians are living in contiguity. The first might be solved, at least in part, by placing Indians under local (State and County) law and for a time providing attorneys for the Indians' adequate defense. The solution of the second problem might be attempted through harmonizing certain Indian Constitutions with local Borough or Village Government procedure that might be adopted by the inter-mingled white and black residents. We share in government of a multitude of primitive peoples living on the Islands of Oceania, who are governed harmoniously under multi-Foreign control. If such complicated control can be exercised harmoniously, why not the affairs of a few hundred people located here and there, within the States?
>
> We should look at the policy of the Administration and the announced plans of the Commissioner, for political and economic independence of the Indians and decentralization of control. We should proceed to put such plans into effect, regardless of how much theory, out-of-date routine, office rules or regulations, etc., may have to be abolished to do so. The affairs of the tribes now having Constitutions receive the same long distance consideration as the affairs of the unorganized groups. The first step in accordance with the Commissioner's plans should be to decentralize to the Field--that is the Regional area; the next from the Regional Office (s) to the Tribes; and eventually the Tribes would decentralize to the integrated (white) local Community into which the Indians will be working and learning their way.

The reorganization extended to the tribal courts. Judges were to be elected rather than appointed by reservation superintendents. The controls over decisions of the court formerly held by the superintendent were removed. The forms used in local courts in the various states were largely followed: the right to be represented by counsel, right of trial by jury, to be released on bail, etc.[41]

Recommendations that a special court be created to allow a settlement of long-standing Indian claims had begun as early as 1923. Repeated periodically the idea was stressed in the Meriam Report in 1928:[42]

> The benevolent desire of the United States government to educate and civilize the Indian cannot be realized with a

> tribe which has any considerable unsatisfied bona fide claim against the government. The expectation of large awards making all members of the tribe wealthy, the disturbing influence of outside agitators seeking personal emoluments, and the conviction in the Indian mind that justice is being denied, renders extremely difficult any cooperation between the government and its Indian wards. Besides these practical considerations, the simple canons of justice and morality demand that no Indian tribe should be denied an opportunity to present for adjustment before an appropriate tribunal the rights which the tribe claims under recognized principles of law and government.

The enactment of legislation to create an Indian Claims Commission was a basic part of Commissioner Collier's outlined program. Hearings were held on a bill for this purpose June 10 and 17, 1935.[43] The failure to secure passage of this legislation was the major defeat of Collier's legislative program. This was not accomplished until 1946, when the Bureau was under the administrative direction of William A. Brophy.

As seen by John Collier at the end of the first four years of his term of office, there had been five major accomplishments in the realm of change in the government's Indian policy:[44]

1. The Indian Reorganization Act of 1934, with its Alaska and Oklahoma supplements of 1936.

2. The attack on problems of physical conservation; of land, soil, water, and vegetation.

3. An over-all endeavor to cause Indians to go to work.

4. Stoppage of Indian land losses and restoration of some of the lands which had been lost. Also the development of a credit system based on the principles of a credit union which would make possible the full utilization of all Indian lands.

5. A shift in educational goals from white-collar to agrarian ideals, from routine grammar school to community school ideals, from a ban on native Indian culture to its encouragement and utilization. At the same time a new emphasis was put on technical and professional training.

A large majority of the Indians of the United States and the natives of Alaska had either accepted the Indian Reorganization

Act or had been blanketed in by the Oklahoma and Alaskan Acts of 1936. Many that had not accepted it received benefits from it. Some, such as the Navajo, did not think of them as benefits.

It was reported that the total land holdings of the Indians of the United States had been increased 2,100,000 acres between 1935 and 1937.[45] Although further purchases were planned, it seemed evident that other solutions would be necessary for cases such as the Navajo reservation with its rapidly increasing population.

Although bitter opposition was developing to the Reorganization program, it was apparent by 1937 that the Indian Service was making progress in many ways: acquisition of additional lands, irrigation works, checking of erosion, further use of Indian resources by Indians, new homes, schools, hospitals, roads, trails and bridges. Federal work projects had been largely responsible for many of the improvements in physical facilities. There were improved medical resources, a new attack on trachoma that by 1939 would see vast improvement of treatment, and by 1943, a virtual end to consideration of this disease as a major problem. The formation of the Arts and Crafts Board with its accomplishments, the continuing and enlargement on cooperation with other government agencies, such as the Department of Agriculture, the Public Health Service, and the Forest Service, all these and other accomplishments denote the vitality of the program.*

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* Pertinent issues of Indians at Work give the best running account of the routine activities of the period. The annual reports summarize the more important events.

FOOTNOTES

IV

[1] Theodore W. Taylor, "Regional Organization, Bureau of Indian Affairs," (unpublished doctoral dissertation, first draft, Harvard, 1957), p. 153.

[2] Ibid.

[3] Dale, op. cit., p. 215.

[4] Downes, "Crusade for Indian Reform," p. 341.

[5] John Collier, "Details of the Reorganization on Which the Indians Wait," American Indian Life, Bulletin 21 (January 1933), 14-21.

[6] William Zimmerman, Jr., "The Role of the Bureau of Indian Affairs Since 1933," The Annals (May 1957), 31-32.

[7] Annual Report, Secretary of the Interior, 1934, p. 90.

[8] Ibid.

[9] Congressional Record, 73rd Congress, 1st Sess., (1933), p. 4183. See also Handbook of Federal Indian Law (1953), p. 220.

[10] Annual Report, Secretary of the Interior, 1934, p. 114.

[11] Ibid., pp. 102-103.

[12] Annual Report, Secretary of the Interior, 1933, p. 100.

[13] Ibid., 1934, pp. 88-89.

[14] Ibid., 1935, pp. 152-153.

[15] Collier, Indians of the Americas, p. 157.

[16] Minutes of the Plains Congress, Rapid City, South Dakota, March 2-5, (Lawrence, Kansas), pp. 73-108.

[17] To Grant to Indians Living Under Federal Tutelage the Freedom To Organize for Purposes of Local Self-Government and Economic Enterprise, Hearings, Senate Committee on Indian Affairs, on S. 2755 and S. 3645, 73d Congress, 2d Session (1934), p. 77. (Hereinafter referred to as Indians Living Under Federal

Tutelage, 1934.)

[18] Ibid.

[19] Readjustment of Indian Affairs, Hearings, House Committee on Indian Affairs, 73d Congress, 2d Session, on H. R. 7902, pp. 234-235; also see Indians Living Under Federal Tutelage, 1934, pp. 219-230.

[20] Maurice Karlen Townsend, "The Rehabilitation of the American Indians Under the Indian Reorganization Act," (unpublished master's thesis, University of Chicago, December, 1950).

[21] Congressional Record, 73d Congress, 2d Session (1934), p. 9268.

[22] Readjustment of Indian Affairs, House, 1934, pp. 361-370.

[23] Collier, Indians of the Americas, p. 157.

[24] Congressional Record, 73d Congress, 2d Session (1934), p. 11127.

[25] Theodore H. Haas, "The Legal Aspects of Indian Affairs from 1887 to 1957," The Annals, (May, 1957), 19-21.

[26] John Collier, "The Genesis and Philosophy of the Indian Reorganization Act," op. cit., p. 7.

[27] Theodore H. Haas, "The Indian Reorganization Act in Historical Perspective," taken from William H. Kelley, ed., Indian Affairs and the Indian Reorganization Act: The Twenty Year Record (Symposium 52nd Annual Meeting, American Anthropological Association, Tucson, Arizona, December 30, 1953), p. 7.

[28] Ibid., p. 13.

[29] Theodore H. Haas, "The Rebirth of Indian Spirit and Action," Address given before the Sixth Convention of National Congress of American Indians, Rapid City, South Dakota, September 22, 1949.

[30] Scudder Mekeel, "An Appraisal of the Indian Reorganization Act," American Anthropologist, 46 (1944), 209-217; "Collier Replies to Mekeel," American Anthropologist, 46 (1944), 422-426; Clyde Kluckhohn and Robert Hackenberg, "Social Science Principles and the Indian Reorganization Act," from Kelley, IRA: Twenty Year Record, pp. 29-34.

[31] Gottfried Otto Lang, "The Ute Development Program: A Study in Cultural Change in an Underdeveloped Area Within the United States," (unpublished doctoral dissertation, Cornell University, 1954), pp. 383-384, 385.

[32] Collier, *Indians of the Americas,* pp. 167-187.

[33] Memorandum from Fitzsimmons to Collier, October 20, 1936, Personal Files of John Collier, National Archives, Washington, D. C.

[34] *Ibid.*, pp. 2-3.

[35] *Congressional Record,* 71st Congress, 2d Session, (1930), pp. 3492, 3635.

[36] *Annual Report,* Secretary of the Interior, 1935, p. 118.

[37] *Ibid.*

[38] Letter from John Collier to Seth Wilson, Superintendent, Hopi Agency, October 18, 1939, Federal Records Center, Denver, Colorado.

[39] See *Annual Reports* of Secretary of the Interior from 1941 to 1953, Employment.

[40] "Decentralization," reprinted from Reorganization Number, *Indians at Work* (July 1936). Taken from Collier's Personal Files, National Archives, Washington, D. C.

[41] *Indians at Work* (February 1, 1936), 34-35.

[42] Meriam, *op. cit.*, p. 805.

[43] U.S. Senate, Indian Affairs Committee, Hearings, *Indian Claims Commission Act (to create Indian Claims Commission, to provide for powers, duties, and functions thereof, and for other purposes)* on S. 2731, 74th Congress, 1st Session, June 10 and 17, 1935.

[44] Zimmerman, "The Role of the Bureau of Indian Affairs Since 1933," *op. cit.*, p. 32.

[45] *Indians at Work* (December 1, 1936), 17-19.

V. THE "NEW DEAL" FOR THE INDIANS 1933 to 1945: REJECTION BY CONGRESS

A. Criticism by Indians and the Public

Charges of communism and anti-religion plagued the Collier program from the beginning. These were to increase as the war approached and the "America First" philosophy developed as a reaction against threats that we might become involved in the extremes of fascism, nazism and communism. The dissatisfaction expressed by particular Indians, by groups such as the American Indian Federation, and localized negative opinions such as were prevalent in New York and Oklahoma were played up to make it appear that Indians generally were dissatisfied with the trend of Bureau activities. The New York Times, Nation, New Republic, Christian Century, and other publications give good coverage to reactions on Indian affairs during this period.

As a closing paragraph in his annual report for 1934, Collier expressed gratitude for the cooperation of various Indian welfare organizations, specifically naming the General Federation of Women's Clubs, the American Indian Defense Association, Inc., the National Association on Indian Affairs, and the Indian Rights Association. He stated, "The Indian Service, for its continuing improvement, is greatly dependent on such help and criticism from unofficial and wholly independent agencies."[1] Some of these and other Indian welfare groups were to become his critics as he had been, and continued to be, a critic of earlier Indian Bureau administrations.

The failure of the Navajo tribe with its large population to come under the IRA was a real disappointment to Commissioner Collier. The difficulties encountered in relation to the livestock reduction programs on the Navajo reservation probably brought Collier and the IRA as much bad publicity as any action effecting an Indian tribe. As publicized it appeared to be the antithesis of what Collier and the program he had sponsored stood for.

In Navajo country it was reported that one family had the use of 331,000 acres, another 228,000. Of the total reservation range resources four Navajo families controlled 10% of the range lands. If this was true the situation was in need of correction. To accomplish this it was necessary to require a re-division of range area. To improve the carrying capacity of the range itself it was necessary temporarily to reduce the total number of animal units grazed. The program was gradually accomplished, but only by using strong, unpopular, and what often seemed arbitrary measures.

The Phelps-Stokes Fund Inquiry of 1939, published under the title "The Navajo Indian Problem,"[2] while it was in itself objective and entirely sympathetic to the purposes of the Navajo stock reduction program, furnished less objective critics with a source of information to be used against Collier and the Indian program. The operation of the Navajo stock reduction program may well be contrasted to that in effect at Laguna and Acoma, where, as the philosophy of the IRA would suggest should be the case, the Indian councils participated in decision making and, therefore, cooperated in the programs as they were developed.[3]

As Commissioner Collier experienced the thrusts of his critics and was faced with the reality of implementing the theory of Indian self-government and group responsibility with the aid of often unwilling Indians and untrained and always inadequate personnel, a different tone was evident in his annual reports. During his first four years he might be typified as a crusader; later it was necessary for him to become a defender and a protector, as his program was subjected to bitter attack.

B. Congressional Criticism

During the first New Deal administration cooperation between the Indian Bureau and the congressional committees overbalanced conflict; however, even late in this period signs of growing opposition, particularly from the senior members of the Senate Indian Affairs Committee, began to appear.[4] As an evidence of this the Indian Claims Commission bill, a piece of legislation basic to the program, failed to receive adequate consideration.

Beginning in 1937, especially after the congressional fight with President Roosevelt over the court plan in which Senator Wheeler was personally involved, the Indian Bureau, and Collier personally, were subjected to bitter attacks on policies, organization, and leadership. Attempts to secure passage of important legislation, and even the routine appearances before committees to secure the passage of special bills, resulted in conflict with individual legislators.[5]

Early in 1937 the struggle between Wheeler and Collier was joined in the columns of the New York Times. March 4, 1937, a letter went out from the commissioner's office in Washington explaining the matter to Bureau personnel. I quote it in part because it is so revealing:[6]

> The Indian Reorganization Act, as a body of authorities with supporting appropriations is not yet two years old.
>
> It was made effective for themselves by 183 tribes, through majority votes at secret-ballot elections. Then, last year, it was amended to embrace the Eskimos and Indians who are half the population of Alaska. And its essential provisions, supplemented by further enactments alike in kind, were extended to the Oklahoma tribes except the Osages. So the Act has become the 'organic law' of eighty per cent of Indian life.
>
> Not carelessly was the Act adopted by Congress in 1934, but after hearings which continued for months, after nation-wide publicity, and after study and debate by congresses of Indians in many parts of the Indian country.
>
> Of course an attempt to abolish the Indian Reorganization Act was expected. It was certain to come, from two wholly distinct and unaffiliated groups, mentioned below.
>
> Indian property rights have not been protected until now. Huge as have been the inroads on Indian property of every class* there even now remains an Indian estate of nearly eighty thousand square miles. Great spaces of Indian range-land still are leased to white lessees; Indian timber still is being cut principally by white operators; much of the best Indian farmland still is leased to whites; did anyone expect that the interests adversely concerned with so huge a property stake would yield instantly and supinely and would not strike back?
>
> But there is another group, who do not want Indian property diverted, who have battled and will battle to protect Indian property rights, yet who dislike the Reorganization Act because they think they find in it a romantic, even an alien element. This group contains active friends of the Indian cause; but those parts of the Act which establish or reinforce Indian self-determination, in the whole range of matters from use of property to enjoyment of culture, profoundly offend the members of this group. They do not believe in this part of the Act; they do not like it. Yet to

the Indians it is an essential part of the Act--indeed, to scores of tribes it is the very life of the Act. And from the standpoint of practical, operative success, these less tangible features of the Act are indispensable. For it is true today, as it has been true since the dawn of the world, that "without a vision, a people perisheth." And the right of the Indian to group self-determination, to the pursuit of their own vision of the good, is so fundamental that it cannot be surrendered; nor can it be segregated and walled-off from the material part; the Indians must assert this right even if it loses them some friends.

From this second group, as from the other group first-named, attack against the Indian Reorganization Act was bound to come.

And from both quarters, the attack was likely to be, as it is proving to be, a wholesale attack, not a discriminating one. The reason for this fact lies at the heart of the Reorganization Act itself. For the Act seeks to save and increase Indian property through saving and increasing the self-activity of Indians; and it holds out for Indians something more than, although including, personal material advantage to be enjoyed by individual Indians. It holds out a renewed group destiny--truly a group destiny, though realized within, and in harmony with, the embracing commonwealth of America.

So the foreseen onslaught against the Indian Reorganization Act has arrived. It started in Nevada. There the Pyramid Lake Band, organized under the Act, announced that if the government should delay in a certain necessary court action, the Band itself would invoke its powers under the Act and would eject the squatters now occupying its lands. The answer came in a bill, introduced by Senator McCarran, January 6, which if passed and signed would abolish the Reorganization Act for all of Nevada's Indians. Thereafter, Senator McCarran introduced a bill (January 15) which if passed and signed would transfer the Indian title to the whites, without Indian consent, and without compensation beyond a tiny installment payment made some years ago.

Following Senator McCarran's bill, the onslaught developed on a wide front. On January 14, Senator Murray introduced a bill seeking to repeal the Reorganization Act for all of Montana. Senator Chavez, on January 18, introduced a bill forbidding the Navajo tribe ever to take refuge in the Reorganization Act. On January 22, Representative McGroarty struck in behalf of the State of California; his bill would repeal the Act for California; on February 11, Representative O'Malley put in a bill to repeal that section of the Reorganization Act which gives preference to Indians for Indian Service employment. And on February 24, Senators Wheeler and Frazier introduced a bill to destroy the Reorganization Act everywhere.

Will any or all of these onslaughts succeed? Prophecy is hazardous, but it is believed they will not. If the several bills should be supported through a searching criticism of the Act and its administration, they will do good. There are some clumsy mechanical features in the Act which need to be simplified, and administration always is justly subject to criticism. Were the Wheeler-Frazier bill to become law, it would bring the beginning of a long Indian night, perhaps the last. Therefore, it is believed it will not become law. Meantime, the onslaught will serve to remind the Indians that their cause is a battleground, now as long ago; an enduring labor, and a battleground.

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*Since 1887, through land allotment usually forced, nearly 90,000,000 Indian acres have passed to white ownership. Of the allotted lands still owned by Indians, fully half have been placed in so impracticable a condition from the Indian-use standpoint that they have to be leased to whites. Five hundred million dollars of Indian tribal trust funds have been dissipated. Huge inroads have been made into the Indian-owned forest and oil fields. The carrying capacity of the residual Indian range has been cut in half through soil wastage due to uncontrolled grazing. Indian claims, to date, of more than a billion and a half dollars, have been piled against the Government through lawless acts by a Congress using its plenary power toward Indians, and of this total of claims, to date, less than twenty millions have been collected by the Indians.

I would like to comment on Collier's reference to the two groups that were fighting the IRA. The first was those who sought to acquire for themselves, or for companies they represented, the use of, or title to Indian lands and resources. The "rugged individualists" of our nation have often shown but little concern for business ethics. It has been suggested that the Indian problem will disappear when the Indians no longer have anything that anyone else wants. The guardianship or trusteeship concept assumes that the Bureau of Indian Affairs, supported by Congress and by the Department of which it is a part, will protect Indian lands and resources from these "rugged individualists." However, local politics become involved, and we sometimes find the members of Congress supporting the cause of the "rugged individualist" in a contest with the Bureau; even when the rights of the Indians, which the Bureau is attempting to support, are a matter of legal record. Contests may also develop within the Interior Department. I think there is no question but that Collier was legally justified, generally, in the stand he took against members of Congress to protect Indian lands and resources.

The second group he mentions includes Indian welfare groups, religious groups, members of Congress, and individuals in the general population who disliked the theory, and even more the attempt to effect the theory, that Indian groups should be encouraged, sponsored, or supported by public funds in the development of a cultural system that they (the critics) considered alien to the prevailing ideology in the United States. This did not necessarily have anything to do with Indian self-government as such, as long as Indian group government followed patterns similar to those of other local governments of the United States. It was related more closely to religious and cultural values, to communal ideas and practices, the Indian-ness in Indians that Collier often referred to. The Indian right to this, in the mind of John Collier, was basic. If there was any one thing that was the guiding influence of the IRA during the Collier period it was this. It was probably the only part of the Collier program that had not previously been recommended to Congress by Bureau administrators. I don't think Congress ever really "bought" it. Members of Congress may say they are for civil rights and against discrimination, but they are using these terms in relation to their own concepts, and these concepts do not tend to make exceptions for minority groups. Minority groups with peculiar ideologies have always had difficulties in the United States, and they have tended to be heightened during periods of national emergency, such as the Collier period in the Indian office.

There is so much that affects policy that does not appear on the surface. Another factor that strongly affected congressional opinion on Indian affairs during the late 1930's and 1940's was the published reports of the Senate Indian Affairs Subcommittee that, since 1928, had been conducting a survey of Indian affairs. Let us evaluate the results of this study and assess its affect on congressional attitude on Indian affairs.

C. Senate Survey and Congressional Criticism

The Senate Survey of Conditions of the Indians of the United States began in 1928 and ended in 1943, with a supplemental report in 1944. During this period the Senate Indian Affairs subcommittee conducting the survey had Senators Lynn Frazier of North Dakota, Burton K. Wheeler of Montana, and Senator Elmer Thomas of Oklahoma serve as chairman consecutively in that order.

The membership of the subcommittee included, in addition to the three mentioned above, Senators Robert M. LaFollette of Wisconsin, W. B. Pine of Oklahoma, Joseph C. O'Mahoney of Wyoming, Henry F. Ashurst of Arizona, Carl A. Hatch of New Mexico, W. J. Bulow of South Dakota, Dennis Chavez of New Mexico, and some others who served briefly. In addition to the regular members the senior senator of the state concerned with particular hearings became a member ex officio. During the entire period hearings were held in many of the states having an appreciable Indian population.

The names of many of the Bureau's strongest critics during the 1937 to 1945 period are found on the list of Senators given above. There were at least two important results of the survey:

1. The Senators were so overwhelmed by the problems they observed that they wanted to get rid of the system, which to them, seemed to mean to get rid of the Bureau.

2. They began to think of themselves as the authorities on Indian affairs, which led to an invasion of the executive prerogatives.

The participants in the survey in addition to the Senators and Bureau representatives from the Washington office included (1) the field force of the Indian Service located in the various jurisdictions; (2) representatives of Indian welfare groups; (3) other citizen groups; (4) individual Indians and Indian leaders; (5) licensed Indian traders; and (6) private citizens who had some familiarity with conditions among Indians in a particular area. By 1933 the published report amounted to over 15,000 pages. By 1943 it had grown to over 23,000 pages.

As one examines the report closely it is amazing how similar the complaints of Indians are everywhere. Their requests were often related to the need for settlement of claims against the federal government and the need to improve some existing situation related to health, education, welfare, Bureau personnel, misuse or failure to be informed of the use of funds, need for employment, etc., on ad infinitum. Sometimes the complaints canceled each other out: one Indian would complain that the Bureau didn't hire enough Indians and another that the ones employed on their reservation were untrained and inefficient. The prosperous and satisfied Indians usually did not appear unless specifically called to testify. Tribal leaders felt a responsibility to present the viewpoint of their people.

One is impressed by the childish nature of many of the complaints and the tendency in some who appeared to be dissatisfied with everyone and everything they came in contact with. One conclusion the investigators came to was that Indian affairs were in bad shape generally and that something should be done post haste to improve them. As John Collier himself put it in discussing the proposed Indian Reorganization Act, "We feel profoundly that something must be done, though we are not prepared to assert that this is the bill."[7] Apparently Congress felt about the same way. They passed the bill, but they soon demonstrated that they didn't agree, in practice, with what they had passed legislation to accomplish, in principle.

June 11, 1943, Senate Report No. 310, a "Partial Report" was submitted by Senator Thomas of Oklahoma, from the Committee on Indian Affairs, with a heading "Analysis of the Statement of the Commissioner of Indian Affairs in Justification of Appropriations for 1944, and the Liquidation of the Indian Bureau."[8] In a rather unscholarly and unobjective manner it proceeded to dismember the Bureau of Indian Affairs in all of its parts and programs. There were outspoken protests from Secretary Ickes and Commissioner Collier inferring that the report was the work of the research staff of the Senate Committee on Indian Affairs and surely could not be the sentiment of Senator Thomas and some other committee members.[9]

May 2, 1944, a "Supplemental Report" was issued as a "clarification of Partial Report No. 310" which in a sense softened the effect of the earlier report but left no uncertainty that in the minds of the Senators concerned congressional policy on Indian affairs had changed.[10] (The change in attitude was apparent by

1937. These Senate committee reports were now putting this change of attitude into words that left no question about intent.)

In the meantime Commissioner Collier found himself in such serious trouble with Congressman Jed Johnson (Oklahoma), chairman of the Indian Affairs Subcommittee of the House Appropriations Committee, that it finally became necessary for Assistant Commissioner Zimmerman to represent the Bureau when it was necessary to appear before Johnson's subcommittee.[11] In the early 1940's funds for the New Deal economic program for Indians were cut. When the United States became involved in World War II these emergency economic programs were eliminated completely.

As the struggle in Europe developed in the late 1930's and as the nation was involved in the early 1940's, more and more of the time of the President and his Cabinet was devoted to international affairs, national preparation, and then the war itself. It was no longer possible for either Secretary Ickes or President Roosevelt to give Indian affairs the attention and Collier the personal support he received in 1933 and 1934.

In 1942, because of the war emergency, the Bureau of Indian Affairs was moved to Chicago to remain for the duration. At a distance it was not possible to be as effective in securing necessary congressional support. The Bureau suffered a loss in qualified personnel during the war as well as loss of funds to support programs. All of these factors combined to make the Commissioner's task more difficult.

D. The House Investigation

Not entirely satisified with the Senate Committee's investigation and reports, the House adopted a resolution in 1944 authorizing a House investigation of Indian affairs. The measure was sponsored by Congressman Karl E. Mundt (South Dakota), with some suggestions from Collier, and supported by members of Congress from other Indian states. An evaluation of the testimony of Indians appearing before the House Investigation subcommittee found that[12]

> Of sixty-two persons who gave a clearly recognizable opinion, on the workings of the Indian Reorganization Act, fourteen very definitely favored the legislation, forty-five thought the act should be repealed, and three thought it could work under certain favorable circumstances.

The possibility that a greater number of discontented than satisfied Indians would appear at the hearings should be taken into consideration.

The following statement was made at the hearings by Joseph Bruner, president of the American Indian Federation which had fought the IRA since its conception because it was thought to be un-American:[13]

> During the past 10 years I have been president of the American Indian Federation, a national organization which was formed for the purpose of opposing the passage and approval of the Wheeler-Howard bill then pending in Congress, for the reason that this bill provided for communistic and un-American activities and governmental policies that were in principle communistic, subversive, and dangerous to our Nation, not only among the Indians, but all other Americans.
>
> The Wheeler-Howard Act was conceived and sponsored by American Civil Liberties Union, a communistic organization with headquarters in New York City, although the Wheeler-Howard Act did not apply to Oklahoma Indians, it was followed later by the Thomas-Rogers Act which provided that the provisions in the Wheeler-Howard Act should apply to Oklahoma Indians. Our protest was ignored and the bill was passed and approved by the President, but we have continued to oppose the Indian Bureau program authorized by this act of Congress. We believe the same to be a dangerous, Christ-mocking, communistic aiding, subversive set up.

This is a good example of a kind of criticism that Collier was continually harassed with. Senator Wheeler took advantage of this for its propaganda value.

The study of the House committee, or Mundt report, took the inadequacies of the Indian Reorganization Act into consideration, as well as the defects in its administration by the Bureau of Indian Affairs. To correct these defects and inadequacies, direct and constructive recommendations were made that were quite in contrast to the free-wheeling criticisms and proposals of Senate Partial Report No. 310. The House Report recommended [14]

1. That elections be provided for those tribes under the IRA who felt that operation under the Act might better be discontinued, to give such tribes the

opportunity to withdraw from the program.

2. That the credit facilities provided for tribes under IRA be extended to all tribes and needy individual Indians.

3. That certain specific types of "red tape" be eliminated from Bureau operations.

4. That an Indian Claims Commission be set up.

5. That funds be appropriated to liquidate the fractionated heirship land problem through administrative negotiation with the heirs, through reimbursable loans to tribes for the purpose of purchasing and consolidating such tracts, and through individual loans for the same purpose.

6. That the curricula and attendance standards of Indian schools be broadened to make more Indian children well equipped with standard elementary and high school training; that the emphasis in Indian schools be upon developing better "Indian Americans" rather than the existing emphasis upon perpetuating the Indian as a special-status individual;" and that the emphasis upon day schools give way to a program promoting attendance at off-reservation boarding schools.

7. That more money and more employees should be utilized by the Bureau to expend certain specific policies set forth in the report, but that over-all economies should be achieved by the Bureau in cutting *down on* activities and expenditures peripheral to the major tasks of the organization; that, specifically, overhead costs for administrative personnel should be cut and more of the Bureau's funds should be spent on direct benefits for Indians; that by delegation of authority to reservation superintendents and by eliminating field staff positions, more effective and more economical results should be obtained.

8. That legislation be enacted to enable individual Indians who were capable and desired to do so, to move from "special status into the realm of full citizenship."

9. That, while there was no alternative to the "communal" land system now being used for rehabilitation of large

numbers of Indians, a program calculated to promote voluntary migration off the reservation and individual ownership of independent, family-sized farms should be a major aim of the post-war Indian policy.

10. That assimilation should be the ultimate goal of the Indian education and training program.

Cutting through all the verbiage, the members of both houses of Congress had reached about the same basic conclusions:

1. They did not want the special status for Indians to be unduly prolonged. I believe they honestly felt the Bureau under Collier had been "dragging its feet." Paraphrasing Haas above: Why hadn't more of the tribes advanced further with self-government and managing their own business affairs as their constitutions and charters would allow?

2. They were concerned with the cost of administering Indian Affairs under the IRA and the possibility that they might be building up in the Bureau an expensive machine that would tend to perpetuate itself indefinitely.

The relations between Commissioner Collier and the House Indian Affairs Committee were quite satisfactory in 1944. Before the end of the year, however, it became apparent that the already bad relations with the Senate committee and with Jed Johnson and the House Appropriations subcommittee were becoming worse and that the Bureau's programs would suffer unless Collier resigned.[15]

E. Bureau Administration, 1943-1944

In the Fall of 1944, Scudder Mekeel, whose article attempting constructive criticism of the IRA and the answer by Collier are cited above, wrote a thoughtful article on the Indian as a minority group. I quote from it here for two reasons: because it sums up the situation in 1944 rather well and because it points out congressional attitude toward what we now call termination as it existed during 1943 and 1944:[16]

> Regardless of class or region, our collective guilt as a Nation because of our past treatment of the Indian has seriously prevented an objective attitude toward him. Such guilt reinforces a sentimental viewpoint and helps maintain

a sizeable budget for the Office of Indian Affairs in Congress, but it does not lead to a solution of the fundamental problems involved. The "hard-boiled" approach has just cropped up in Congress. The Indians ought to be turned loose immediately even if it means starvation for large numbers. Neither of these attitudes is realistic.

The Indian problem must be viewed objectively in its social and economic terms. For these folk people have ways of life which are radically different from ours. Their cultures must be thoroughly understood so that the differences may be constructively used in administration. The close kinship groups, the natural communities, and other social groupings are still of binding importance in the majority of Reservation societies. Both missionary and Government administrators have fought these institutions as hindrances to progress. Only recently have we seen that they can be potent tools in the re-establishment of morale and in the successful initiation of many programs which have previously failed.

There is no question but that drastic changes in the mode of living were necessary for most American Indian tribes. They had to meet changed conditions. Recently a new and more constructive policy which seeks to reorganize Reservation societies on an economically sound basis has been initiated. Whether it can be carried through to success remains to be seen. But certainly this is no time to abandon the whole effort.

In Circular Number 3537, November 15, 1943, Commissioner Collier refers to Circular Number 3514, which was made the subject of a series of regional conferences and called for the preparation of basic programs for each tribe, band, or group. These programs were to include the following:[17]

1. An inventory of tribal resources.
2. An appraisal of agency services.
3. An estimate of future tribal needs.
4. A long-term plan for preserving tribal resources and for adapting them to meet tribal needs.
5. A statement outlining how services now rendered by the

> agency might be perpetuated (b) by other agencies, (b) through the efforts of the Indians themselves.
>
> These objectives should facilitate the Federal Government in dispatching its obligations to the Indian by (a) making it possible for him to attain economic independence by offering him an opportunity to acquire the fundamental necessities of life and (b) by according him political equality by making available to him the privileges enjoyed by other elements of our population.

The chapter written as a response to item 5, above (and the following explanatory paragraph), in the reservation program for the United Pueblos Agency, is included as one of the appendices to this study. These documents make it apparent that the termination policy enunciated by Congress in 1953 had begun to be implemented during 1943-1944. At that time it was strictly congressional in origin. The administrators of the Bureau of Indian Affairs were entirely out of harmony with it. They continued to be for some time, but congressional control of the purse strings has a way of bringing executive agencies into line.

F. The National Congress of American Indians

On November 15, 1944, delegates from twenty-seven states representing more than fifty tribes met at Denver, Colorado, to effect the organization of the National Congress of American Indians. The preamble to the Constitution of the Congress stated these purposes: "to enlighten the public, preserve Indian cultural values, seek an equitable adjustment of tribal affairs, and secure and preserve their rights under treaties."[18]

Judge N. B. Johnson, himself a Cherokee Indian from Oklahoma and a charter member, gave these reasons why such an organization was imperative:[19]

> Jurisdiction over Indians reposes in the U. S. Congress, with a federal agency to administer the laws passed by it. Indian affairs in comparison to national affairs, are small indeed. Few men in Congress have the time to make a thorough study of the needs and the desires of the Indian people. The few who do seriously study these matters are generally lost in the great storms and struggles which fall upon Congress.
>
> The Indian Service, as the administrative agency, is not

always in the best position to influence Congressional policy. There are times when this federal agency is under fire by the public or by Congress. On such occasions, the Indian Service is often partisan and its recommendations must be viewed with skepticism by the Indians.

Thus in moments of crises Indian tribes and the Indian people generally are left without an effective champion.

The Federal Government has failed again and again in its dealings with the Indians because there has not been any leadership among the Indians, or such leadership was negative and effective only in resisting the Federal policy. Indian leadership should contribute to the formulation of Federal policy. It should take the leading part in inquiring into the needs of Indians and of making those needs vocal. Such leadership would perform an invaluable service.

G. Summary

The twelve years under Collier was an eventful period. Not only because in the Indian Reorganization Act Congress included so many of the reforms that had been advocated for over a decade by Bureau administration and reformers, but also because of the depression and the changes it brought through federal work-relief programs and World War II, which caused some 65,000 Indians to leave the reservations for the armed services or to engage in industrial or other work related to the war effort.

It is difficult in analyzing the period to determine which events were products of the IRA as such, which resulted from the changes brought about during the depression era, and which should be traced to the activities the Indians engaged in as a result of the war. Whatever the origin of a particular activity, the period from 1933 to 1945 was one of growth for the Indians of the United States. As a people, the Indians were better prepared to manage their own affairs in 1945 than they were in 1933.

FOOTNOTES

V

[1] Annual Report, Secretary of the Interior, 1934, p. 120.

[2] "The Navajo Indian Problem," Phelps-Stokes Fund Inquiry, 1939.

[3] Jay B. Nash, Oliver LaFarge, and W. Carson Ryan, The New Day for the Indians (1938), pp. 22-23.

[4] Freeman, "The New Deal for the Indians," pp. 467-468.

[5] Ibid., p. 468.

[6] Letter from John Collier to Bureau Personnel, March 4, 1937, Washington, D. C., Federal Records Center, Denver, Colorado.

[7] Indians Living Under Federal Tutelage, 1934, p. 77.

[8] Survey of Conditions of Indian Affairs, Partial Report, Senate, Report No. 310, June 11, 1943, 78th Congress, 2d Session.

[9] Letter from John Collier to Senator Elmer Thomas, July 1, 1943, and Letter from Harold L. Ickes to Senator Elmer Thomas, July 6, 1943, Federal Records Center, Denver, Colorado.

[10] Senate Survey of Indian Affairs, Supplemental Report, May 2, 1944.

[11] Freeman, "The New Deal for the Indians," p. 494.

[12] Merlyn C. Skyes, "A History of the Attempts of the United States Government to Re-Establish Self-Government Among the Indian Tribes, 1934-1949," (unpublished master's thesis, Bowling Green State University, August, 1950), p. 78.

[13] U. S. House of Representatives, Indian Affairs Committee, Hearings, A Bill to Authorize and Direct and Conduct an Investigation to Determine Whether the Changed Status of the Indian Requires a Revision of the Laws and Regulations Affecting the American Indian, Part 3, 78th Congress, 2d Session, Pursuant to H. Res. 166, Hearings in the Field (Washington, Gov't Print. Office, 1947), p. 1054.

[14] Ibid, the whole report.

[15] Freeman, "The New Deal for the Indians," pp. 494, 510-511.

[16] Mekeel, Scudder, "The American Indian as a Minority Group Problem," The American Indian, Vol. 2, No. 1 (Fall, 1944), 11.

[17] Reservation Program. Part II - Overall Plan. United Pueblos Agency, March, 1944. p. 1.

[18] "The National Congress of American Indians," The American Indian, Vol. 3, No. 3, (Summer, 1946), 3.

[19] Johnson, N. B., "The National Congress of American Indians," The American Indian, Vol. 3, No. 3 (Summer, 1946), 2.

VI. THE POST-WAR PERIOD TO 1953
COMMISSIONER BROPHY, 1945-47

Under the heading "Things That Have Worked," the Hoover Commission Report points to the success the government has enjoyed in its educational policy and in "helping the Indian to help himself" to devise means of using reservation resources to earn a better living. The report goes on to say that such a policy has been

> . . . demonstrated, and forgotten over and over again. The Oglala Sioux, for example, have made good in raising cattle twice before their present effort. The Pine Ridge group had 10,000 range cattle as early as 1885 and 40,000 by 1912. A turn of public policy wiped them out. They are building up again, and in 1946 had some 27,000 head.
>
> The Indians have taken to raising livestock most readily. With help in the form of capital ("repayment cattle" or loans) and technical assistance (agricultural extension services) they have gone ahead. Fewer have gone into farming; good farm land in Indian country is limited; and Indians do not live in family-farm communities. Enough have done so, however, to show that they can do it. There are also successful business ventures. It is clear that the combination of technical and financial assistance is effective in helping Indian people to raise their income and standard of living. This policy works.[1]

Although many good things could have been said for the Indian Reorganization Act in 1945, Congress was tired of the conflict with the Act's foremost champion, John Collier. Commissioner Collier resigned in February. William A. Brophy, special United States attorney for the Pueblo Indians of New Mexico and special representative of the Secretary of the Interior on Puerto Rican affairs, was nominated almost immediately to succeed him. During the hearings on his appointment, the suggestion was made that he had been selected by Collier as his successor and would carry on the Collier policy. At one point the chairman made this statement:[2]

> Moreover, the Chair is informed that he [Brophy] is not in agreement with the previous policy. Is that correct, Mr. Brophy?

Mr. Brophy. [I] would like to put it that I will follow the policy fixed by Congress.

. . . . . .

Senator Hatch. Mr. Chairman, may I interrupt for a moment? I think Mr. Brophy has given an answer which is highly interesting to the committee on this particular subject, and I just wondered whether the committee got what he said about following out and administering and carrying on the policies as laid down by Congress.

The Chairman. I was just about to call attention to that.

Senator Hatch. What are your ideas on that, Mr. Brophy?

Mr. Brophy. Well, sir, I have no reservations whatsoever. I think the function and purpose of an official who is in an executive department, no matter what kind of a man he is, is to carry out the law as it is written, and the spirit and intent of it.

The Chairman. Would it be your purpose, if you were confirmed as Commissioner of Indian Affairs, to work with Congress, and not around Congress?

Mr. Brophy. Well, sir, I look at it--I do not know whether I am right or not--as sort of a partnership, when you get right down to it because Congress makes the policies, and they have to be carried out; if an executive does not carry them out, he ought to get fired.

The Chairman. Well, would it be your policy to work with Congress?

Mr. Brophy. Oh, of course. Definitely.

The Chairman. And carry out the congressional policy?

Mr. Brophy. Definitely. I do not think that a man could take the oath and not do it.

Indian policy as effected by Congress had definitely begun to change by 1937, at the end of Collier's first four years in office. By 1943 and 1944, as illustrated by the actions of the Senate and House Indian Affairs Committees and the House Appropriations Committee mentioned in the previous chapter, congressional

Indian policy had changed to such an extent that Collier and the congressional committees were definitely at cross purposes. To the extent that Congress shapes Indian policy, policy had changed over the protests of the Interior Department and the Bureau of Indian Affairs during the Collier administration. Under the threat of liquidation of the Bureau, refusal to authorize new appointments, and the withholding of funds, programs were requested from each superintendent looking to the possibility of other federal agencies, the States, or the Indians themselves assuming responsibilities that were then a part of the so-called "monopoly" held by the Bureau in Indian affairs.

A. Post-War Prospects

The Annual Report for 1941 states that[3]

> One of the matters causing concern to the Office of Indian Affairs is the task of making provision now to take care of the several thousand Indians who will return to reservations at the end of the emergency. . . . The Indians will be among the first to be affected by the shrinkage of employment opportunities subsequent to the war, and, if the past is any guide, they will return in large numbers to their home reservations. With resources inadequate to meet the needs of those already there, the problem of providing employment opportunities and a means of livelihood for each of the returned soldiers and workers will prove a staggering task.

In the report for 1942 this problem is mentioned again:[4]

> Should economic conditions after the war continue to offer employment opportunities in industry, many Indians will undoubtedly choose to continue to work away from the reservations. Never before have they been so well prepared to take their places among the general citizenry and to become assimilated into the white population. Between 1934 and 1942, an extensive program of adult education was carried on throughout the reservations. Many as CCC enrolles, learned to operate jack hammers, to weld, to drive bulldozers, and to maintain and repair all kinds of equipment. Under the Public Works program, large numbers of Indians were employed in the construction of schools and hospitals on reservations. In the road-building program of the past ten years, hundreds of Indians became proficient in the operation of heavy machinery,

in surveying, and other skills involved in road construction and maintenance.

The 65,000 or more Indians who had left their homes during the war had also learned skills in the armed services, in industry, and in other employment related to the war effort.[5] Possibly of even greater importance, they had lived intimately among non-Indians, taken their measure, and found themselves capable of competing with them on even terms. Most Indians in the armed services found they were made a part of the unit on land, sea, or air by their buddies. When the war ended, they returned home with a different view of the world and the people in it. To some this would bring a time of great opportunity; to others, a time of despair.

The average income of Indian families had been unusually high during the war years. Prices and demand for agricultural products were good. Those leaving the reservation relieved the pressure for land and other resources for those who remained behind. The mineral, timber, and other natural resources of the reservations were in greater demand and brought more income to Indian groups than they had previously. The need for additional sources of supply had caused companies to extend their exploration operations to areas previously not well known.

When the Indian youth returning from war service were asked what plans they had for the future, their answers were varied as were those of the non-Indians. Some had learned trades and wished to continue in them. Some wanted to take advantage of the G. I. Bill and continue their education. Others were just anxious to return home and resume their place in the community. Of these some would want loans to build homes, to establish small businesses, to improve their property, or to buy livestock. Almost all referred to the opportunity they had enjoyed of seeing more of the world, and many expressed a desire to let this experience be a means of broadening their outlook during the future before them at home.

The annual reports of the Commissioner of Indian Affairs to the Secretary of the Interior show the concern felt throughout the Indian Service for those who would be returning. They knew that at best the existing reservation land base could support only a part of the Indian population.[6] It would be necessary to find a place for tens of thousands of Indians in the general national economy.

As the 1946 report points out, what the Bureau had anticipated, had begun to occur:

> Cessation of hostilities marked the beginning of a profound change in their [the Indians] fortunes. Wages from war work vanished. Dependency allotments sent home by servicemen and women began to dwindle as the armed forces diminished. A downward trend in family incomes set in.[7]

The very conditions of the times required a broad approach to the existing situation. In a memorandum to Mr. Fickinger concerning Indian employment, C. E. Lamson recommended that cooperative arrangements be worked out with the U. S. Employment Service to take advantage of their nationwide coverage of job opportunities. He recommended that an employment unit be established, headed by an individual with a broad background of employment experience, and that in each of the regional offices one or more individuals with similar background be placed.[8] This was a time of general prosperity in the nation. It was not a time to talk of work projects for the reservations. There was a feeling that during such times any person could find employment. It is not difficult to see why many people interested in Indians would want them to have an opportunity to share in the good things available to Americans generally. As usual, the good times in the nation were also a time of unusual competition for lands and resources when non-Indians would bring pressure on their representatives in Congress to make Indian holdings available on the market.[9] Individual Indians holding allotted lands found the dollar signs looming large in their eyes, and pressure also developed from these Indians to liberalize the granting of patents.

When the war ended the Bureau was prepared to work with veterans and keep them informed concerning privileges and opportunities that were available to them as a result of their war service. In addition to educational benefits, on-the-job training, and vocational training, there were special loan privileges available to veterans.[10] Steps were taken to make it possible for Indian veterans to secure commercial loans by offering income from trust property, livestock, equipment, etc., rather than the property itself as security. In some cases tribes offered special benefits to veterans.

B. Reorganization

Shortly after he became commissioner, Mr. Brophy recommended a reorganization of the administrative functions of the Bureau: "In order better to solve the problems, old and new, and to render more efficient services to the Indians . . . ."

The New York Times announced November 27, 1945, that a bill had been passed by the House and sent to the Senate which would authorize the Secretary of the Interior to delegate certain of his powers and duties to the Commissioner of Indian Affairs, who could in turn delegate them to his subordinates, who would then be able to reach decisions closer to the point where Indian problems originate. From February 18 to May 14, 1946, hearings were held on this bill to "facilitate and simplify administration of Indian affairs" before the Senate Indian Affairs subcommittee. The President signed the bill August 8, 1946.

The reorganization allowed the commissioner to set up five geographical districts with headquarters at Minneapolis, Minnesota; Billings, Montana; Portland, Oregon; Phoenix, Arizona; and Oklahoma City, Oklahoma.[11] These changes made it possible to delegate to district officers and agency superintendents authority to act on many matters that previously had been referred to the central office. The establishment of the five districts made it possible to eliminate over forty "at large" stations or offices.

In addition to the above changes the budget structure was completely overhauled allowing titles of appropriations to be consolidated from 116 to 29. This greatly simplified budget analysis and tended to facilitate the fixing of budget responsibility by major activities.

C. Indian Claims

For over two decades recommendations had been coming to the Bureau of Indian Affairs and to Congress to set up a special Indian Claims Commission to hear the many unsettled tribal claims against the United States. It seemed apparent that such action should precede any attempt on the part of the nation to divest itself of the responsibility for an Indian tribe.[12]

Both the Burke and Rhoads Indian administrations had favored the settlement of these claims, and as mentioned in a previous chapter, the failure of Congress to pass an Indian claims bill in 1935 had been a keen disappointment to John Collier. The House Indian Affairs Committee, as a result of its investigation of certain Indian problems during 1944 and 1945, included the establishment of an Indian Claims Commission on its list of recommendations.

Felix Cohen stated that by early 1945, some $37,000,000 had been awarded to Indian tribes under the old system,[13] which required Congress to enact special statutes allowing specific tribes to appear in the court of claims for stipulated injuries arising under treaties and agreements. He estimated that the cost to the United States in litigation and other procedural matters was greater than what the tribes had been awarded.

Two similar bills (H. R. 1198 and H. R. 1341) were introduced during the first session of the Seventy-Ninth Congress in 1945. Hearings were held on these bills for the "creation of an Indian Claims Commission" from March to June that year. Further hearings were held October 9, 1945, and May 14, 1946, "establishing a joint congressional committee to make study of claims of Indian tribes against the United States, and to investigate administration of Indian affairs."

In the second session of the Seventy-Ninth Congress, hearings were held on H. R. 4497 "to create an Indian Claims Commission (to provide for powers, duties, and functions thereof, and for other purposes)," during June and July, 1946. After approval by both houses of Congress, the President signed H. R. 4497 August 13, 1946.

The act called for the creation of a three-man Indian Claims Commission that would hear and determine claims existing prior to the bills approval within ten years. It was anticipated that the commission would then cease to exist. Claims not filed within five years were to be outlawed. Any new claims after that date were to be filed in the court of claims.

As one studies the hearings relative to the creation of an Indian Claims Commission, it becomes evident that one of the reasons Congress considered it favorably was because they saw in it a means of preparing the Indian tribes to manage their own affairs without federal supervision.

It was the comment of the Meriam report that:

> Many tribes have large tribal claims against the government of the United States. Some of these are probably valid, others very doubtful, and still others clearly worthless. Regardless of validity the existence of such unsettled claims has a bad psychological effect upon the Indians. They often refuse to work, improve their farms, or make definite plans for the future because they have been told, sometimes by

> unscrupulous attorneys, that they are rich and can hope eventually to receive enough money through the settlement of tribal claims to enable them to live in comfort without effort on their part.
>
> . . . .
>
> If a claim is good it should be declared so at once in order that the money due may be available for the advancement of the Indian, while if it is bad it is equally important that the Indians should know it, so that they may put aside their dreams of wealth and go to work to improve their economic status by their own efforts.[14]

D. To Free the Indians: 1948-1953

We have seen that during the last year of Collier's administration he was frequently criticized for moving too slowly in his policy of freeing the Indians from governmental control. The attack came not necessarily because his objectives or long-range policy were wrong, but because he was moving too indirectly toward them. Congress was becoming impatient. Collier summed up his philosophy, stating that

> The complete withdrawal of governmental protection would merely substitute a more difficult problem in place of one that is on the way to a solution. It would create a permanently dispossessed and impoverished group that would either have to live on the dole or would become one more sore spot in the body politic.[15]

He mentions what he calls "the way to a solution." His program was in a circular issued November 15, 1943, which was made the subject of a series of regional conferences, called so a basic program of preparation for releasing total governmental supervision from each tribe, band, or group might be made. These programs were to include the following:[16]

(1) An inventory of tribal resources.

(2) An appraisal of agency services.

(3) An estimate of future tribal needs.

(4) A long-term plan for preserving tribal resources and

for adapting them to meet tribal needs.

(5) A statement outlining how services now rendered by the agency might be perpetuated either by other agencies or through the efforts of the Indians themselves.

He felt these objectives would facilitate the discharging of governmental obligations to the Indian by making it possible for him to attain economic independence and by according him political equality. One such program had been severely criticized and considered a regression to the policy of earlier periods. The ultimate purpose of Indian policy according to Thomas Jefferson was to permit the white settlement to meet and blend with the Indian culture, to intermix, and to become one people. The policy of Congress in recent years had been to break up the Indian tribes and encourage individual integration. The chief asset of an Indian tribe was its land, and Congress had allotted this land on an individual basis. Collier clashed with this philosophy when he said

> Indians must be permitted to retain tribal entities: If we think of the tribes as communities and of tribal self-government as local civic government, in the modern democratic sense, we can divest ourselves of the lingering fear that "tribalism" is a regression, and can look upon it as the most important single step in assimilating Indians to modern democratic life.
>
> For we know and Indians know that Indian values are real and persistent and viable. And we know that if history means anything it means both a struggle for freedom and a struggle to preserve achieved values against the disintegrating forces of time and change. We believe, in short, that Indians can maintain their old proved values while selectively absorbing new values from the modern world.[17]

Although Congress balked for a time at this policy and at times Collier had to defend the concept which Congress passed as the Indian Reorganization Act against Congress itself, many of his ideas were later partially adhered to, including the five listed above.

Prominent among the principles of termination programs was the gradual abolishment of the Bureau of Indian Affairs itself. This view was expressed by Assistant Secretary of the Interior William E. Warne as he commented on this congressional policy that he was obligated to implement:

> The avowed objective of the Indian Service of the Department of the Interior through the years has been to work itself out of a job. Within the last year the committees of the Congress which are concerned with Indian Affairs have expressed some doubts whether the controls were being released rapidly enough. To reaffirm this policy of releasing Indians from Government supervision, the Congress made substantial reductions in funds appropriated for this fiscal year [1947] for Indian administration at all levels of the service.[18]

Congressional control of the purse strings earlier resulted in the elimination of Collier and in showing the Bureau where the authority lay. Termination programming had not been accelerated particularly by 1952, however, for we find in the remarks of Representative Bow from Ohio the same old charges:

> The thing that concerns me . . . is that although we give lip service and talk about the emancipation of the Indians and getting them off the reservations and doing all those things that we claim we will do for them; nevertheless, every year, instead of the Indian Bureau being liquidated or being cut down in size, it is getting bigger and bigger.
>
> . . . . . .
>
> I feel . . . that it is time that this House does something more than to accept the statement that we are going to get rid of these Indian problems; that we are going to eliminate the Indian Bureau. It is time we did something about it, and got some legislation to accomplish that.[19]

The real feeling of Congress during this period as expressed by their Indian committees can be stated in rather clear terms: liquidate the Indian Bureau and free the Indians or perhaps free the government of the Indians. The policy of termination was not new, since it had been the philosophy of Congress for some time, although it was worked at rather feebly. The Congress in the early 1950's felt that the time was right and that it was the proper agency to accelerate the program.

Reva Beck Bosone, a congresswoman from Utah during this period, introduced a joint resolution authorizing a study of the country's approximately 260 tribes, bands, and groups of Indians, to determine their qualifications to manage their own affairs without governmental supervision. The debate and discussion of her resolution revealed that Congress would support this idea, if not too expensive, and that the Indian Bureau was not considered qualified to make such a study as would be required. Perhaps she was setting the stage for what would happen in 1953. Because of her typical viewpoint, I quote from her remarks:[20]

> Three years ago I was the first member of Congress to introduce a resolution to start the wheels turning to take the American Indian off wardship. Now, everybody seems to be trying to get into the act. In my estimation, the move to free the Indians is long past due. My conviction that there should be legislation to make people of the American Indians has been steadily growing ever since I came to Congress.
>
> . . . . . .
>
> The American Indian has been under the supervision of the Indian Bureau for over 100 years. During these years Congress has enacted hundreds of laws relating to some phase of the Indians welfare, and the Indian Bureau has administered these laws. And what is the result? We have succeeded only in so binding and restricting the Indian that he has little life of his own, and little control over his destiny.
>
> . . . . . .
>
> It seems to me it is high time we set our sights and begin to work toward these ends.

It is interesting, if not correct, to observe that Congress felt not much of anything was being accomplished by the Bureau, while the Bureau, if the commissioner's statement may be considered as representative, saw things in a different light:

> But the government's relationship to Indians is itself in transition. The Indian Reorganization Act made that inevitable. The Indian Office is moving from guardian to advisor, from administrator to friend-in-court. In this transition, many powers hitherto exercised by the Indian Service have been transferred to the organized tribes; many more such powers will be transferred.[21]

The development of the policy of transferring functions from the Bureau to other agencies became well developed during this period of transition. The annual report for 1949 reported some such transfers:

> In accordance with this procedure, during the fiscal year 1949, the Secretary of the Interior issued an order to relinquish departmental supervision over certain tribal affairs of the Saginaw Chippewa Indians.
>
> Similar action in regard to the Stockbridge-Munsee Indians of Wisconsin, was taken in 1948.[22]

One might ask if such a policy of transfer was not entirely new, where are precedents to be found? Commissioner Collier, who urged and saw the Indian Reorganization Act passed as law and who was severely criticized because he was allowing Indians to organize as tribes under it, envisioned the delegation of federal governmental authority to tribal organizations. We read further from the annual report of 1949:

> The central point of the Indian Reorganization Act may be found in the provisions dealing with tribal government and incorporation. It was an invitation to the various tribes to assert their right to turn their own affairs, to set up the machinery necessary for effective self-government under modern conditions.[23]

Such gradual transfer of responsibilities is sometimes referred to as "piecemeal" termination. Theodore H. Haas, in a speech before the National Congress of American Indians, charged them with the responsibility of helping the Indian Bureau to work itself out of a job. He said:

> . . . Show us what functions we should diminish or end, what functions we should increase, if any; what functions we should turn over to the state and local governments, another Federal bureau, or the tribes. Kindly be specific in your advice as to method, time, and place, and give us the benefit of your reasons.[24]

And then in what we might call righteous indignation, because he spoke from the standpoint of the Bureau which he supported and which he saw being severely attacked, he said:

> Why haven't more Indian tribes--including some of the members of your organization--sought the transfer from the Bureau to them of additional powers over the management of their own community activities? What is the National Congress of American Indians doing in

this important administrative field--especially with regard to groups who denounce Bureau domination?[25]

There were long-standing differences of opinion between the Indian Bureau and Congress. Under the allotment system Indians were assigned parcels of land on an individual basis although it continued to be held in trust for them. This land could be released to individual Indians if and when they petitioned for it. During the late 1940's and 1950's the rising demand for land and the high prices being paid for it tempted many Indians to seek buyers for their land, and many non-Indians were as strongly activated to seek the land. In commenting on this situation, the annual report for 1948 states:

> Under existing law the Secretary of the Interior may issue fee patents or remove restrictions against sales, if he finds that such action by him is in the Indian's interest. In response to the increasing demand the Indian Service has attempted conscientiously to discover in each case if the granting of a fee patent would benefit the applicant and if the sale of a given tract could be allowed without destroying the efforts of others to consolidate their holdings into economic units. These efforts to comply with the requests of allottees for fee patents while safeguarding other Indian interests are brought to nothing at times by the enactment of legislation requiring the Secretary to issue fee patents. When such legislation is adopted without regard to the total problem of land needs at a given Indian reservation, every advance made in the last 15 years is threatened.[26]

The cross purposes which developed between Congress and the Bureau in Collier's administration did not end with that administration. On a later occasion Roger Ernst, Assistant Secretary of Interior, stated that regardless "of our own feeling concerning a resolution passed by Congress, we were obliged to recognize its existence and govern ourselves accordingly."[27]

Congressional control of appropriations has had a way of determining ultimate policy. The Meriam report, at the time it was published, stated that it would take almost twice the appropriation Congress had made for the Indian Service if each of its major areas of activity were brought abreast of the better if not the best practice of other organizations which perform similar functions for the general public.[28] The Bureau has felt that lack of funds has always hindered it from reaching the goals it has desired and from obtaining the personnel needed to administer its programs. As an agency which follows, of necessity, the programs enacted by Congress, the Bureau reported in 1949 that

> The expenditures which have been made over the years in behalf of our Indian people were not based on any long-term plan for the orderly solving of the problems they faced. Rather the record indicates that these expenditures and the physical effort released by them have been sporadic, discontinuous and generally insufficient.
>
> This record explains why today many Indian children of school age have no schoolrooms and no teachers to provide for their education; why many Indians are still without any kind of health care; why thousands of Indians are without means of livelihood, either the form of productive resources or marketable skills; why irrigable lands owned by Indians lie undeveloped in the arid West; why countless Indian communities are without roads on which to travel to school, to hospital, or to market.
>
> . . . . . .
>
> Basically, the Indian "problem" is one that calls for men, money, and imaginative and patient management. There are no panaceas, no "overnight" solutions. But it is along such lines that we must move to discharge our ancient obligation to the American Indian. As the Hoover Committee on Indian Affairs reported:
>
> An ultimate substantial reduction in Federal expenditures in the field of Indian affairs is possible . . . . No immediate reduction can be made without delaying progress and postponing the time when expenditures can be curtailed substantially . . . The length of time before expenditures can be reduced, without building up future costs, will depend largely upon the vigor with which the program is pushed. Vigor will depend on clear and consistent policy, leadership, and financial support.[29]

Appropriations, then, have generally been inadequate and have not been based on a long-range plan of federal withdrawal. Also, the situation often seemed as if one hand did not know what the other hand was doing:

> Through the years it was assumed in the executive branch and in Congress that the annual requests for funds and for authorities to act in Indian affairs were in fact

> annual installments and steps leading toward the final liquidation of the problem.[30]

It was the attempt of Mr. Collier to establish a long-range program based on the five points mentioned earlier. Important to this program was an evaluation of tribal resources, an appraisal of agency services, and an estimate of future needs. The philosophy behind such policy was that the development of a withdrawal program affecting any particular Indian group must be preceded by and based upon a compilation of all the relevant factual data concerning them.

In May of 1948 such an evaluation was begun when Mr. Zimmerman issued a circular to area superintendents. The following specific instructions were given:

> What is desired is the assembly in concise form of existing factual data as to the social and economic status of each group or tribe and, after a careful analysis and evaluation of these data, the projection of a comprehensive long-range program. The objective of the program should be the eventual discharge of the federal government's obligation, legal, moral, or otherwise, and the discontinuance of Federal supervision and control at the earliest possible date compatible with the government's trusteeship responsibility. This may mean the early termination of all Federal supervision for some groups, whereas for others it seems obvious that certain Federal activities, including the development of resources, must be continued for many years.
>
> The programs should be logical and realistic. They should indicate when it might reasonably be expected that each group or tribe will be in a sufficiently stable position both socially and economically to permit the reduction of Federal supervision to a minimum, or its discontinuance entirely. The possibility of having the states assume more responsibility for such supervision and control as is necessary should be carefully explored. As to some groups or tribes, it is believed the government can and should reduce materially its supervision and service at an early date. As to others it will probably be necessary for the government to exercise some degree of supervision and protection for many years in order to prevent a recurrence of the historical process of the dissipation of Indian lands and other resources.[31]

In the annual report for 1948 we read of the preparation and submission to Congress of a long-term program of capital investment for the Navajo and Hopi reservations. What was unique about this was that it was the first time a plan for a specific Indian area had reached the stage of congressional consideration. It went on to say that

> Acceptance or rejection of the Navajo-Hopi proposal may determine whether our national Indian policy in the future is to be based on a division of the total problem of human adjustment and resource utilization into parcels of a size that can be measured and dealt with on a time schedule. The Meriam report urged such a procedure.[32]

The long-range Navajo-Hopi rehabilitation bill authorizing $14,000,000 in cash and $6,000,000 in contract authorization was enacted in 1950. The bill carried a controversial provision for additional federal contributions to the Arizona and New Mexico Departments of Public Welfare for public-assistance grants to Navajos and Hopis above the amounts to be paid the states under Social Security. More than 5,000 Indians will be affected by this law. The next large rehabilitation bill to be considered was a $23,000,000 program for the 7,000 Indians living on the Papago Reservation in southern Arizona. The goal was to prepare these groups to handle their own affairs without government supervision.

On January 6, 1949, Secretary of the Interior J. A. Krug announced the appointment of a National Advisory Committee on Indian Affairs to consult with and advise the secretary and officials of the Bureau of Indian Affairs relative to administrative policies to be utilized with the American Indians.

Secretary Krug, asking for statutory authorization for the committee, reported to Congress that

> The members with their different viewpoints, have been able to bring to the Department objective and impartial advice and criticism. They have given the officials of the Department and the Bureau of Indian Affairs a clearer understanding of the attitudes and views of the informed public.[33]

Commissioner Brophy had earlier enunciated a policy he felt must govern the making of decisions. He, perhaps, was underlining the principle of bilateral conferences between Indians and governmental officials. Congress seemed determined to bring the old unilateral concept back into vogue. Said Mr. Brophy:

> I am more convinced than ever that we must get

> closer to the people if our programs are to yield the greatest benefit to the Indians and the country. We must constantly strive to have greater participation by the Indians in the initiation, formulation, and execution of our policy and work; I am satisfied that the largest degree of success will be attained only if we do that. There is a tendency in some quarters to think that Indian participation is sufficient if we submit to them completed plans of things to be done so that we get cut and dried decisions. That is not enough. The Indians should be brought into the initiating stages of policy formation and planning. There should be a real sharing of ideas about goals and how to reach them, and their views as well as those of the entire staff of the Service should be weighed and considered. Our programs, moreover, must be coordinated and integrated with other Interior programs and those of other governmental units as well as those of local civic groups if we are to achieve maximum accomplishment.[34]

The idea of consultation was to stir up great controversy in the future, but for the time being the policy of bilateral exchange was adhered to. As an apparent move to get decisions made closer to where they needed to be made, thus providing for closer cooperation between the Bureau and individual tribes--as if the Bureau was sensing that Indian problems were different in the various sections of the country--a great change in the basic organization occurred. The decentralization of the functions of the Bureau from the Washington level to the area offices and field jurisdictions was caused primarily by the inability of the Washington office to deal effectively with more than 100 field offices. A large number of delegations of authority, chiefly affecting land matters and credit operations, were made from the commissioner to the area directors.

The annual report for 1951 summarized the period it covered as one of administrative realignment, of continued operation of normal Indian service functions, and of preparation for more intensive effort to accomplish the Bureau's two long-range objectives:[35]

(1) A standard of living for Indians which is comparable with that enjoyed by other segments of the population, and

(2) The step-by-step transfer of Bureau functions to the Indians themselves or to appropriate agencies of local, state, or federal government.

The report went on to say that in order to accomplish these objectives

> . . . the basic need was for a group of qualified personnel, free from the responsibility for the everyday administration of Indian affairs, who could devote their full attention to the job of developing cooperatively with each of the major Indian groups an individualized program of resource development accompanied by constantly expanding Indian control over the management of their individual and tribal affairs.[36]

We note the mention of developing the programs cooperatively as we have mentioned before. The report for 1952 mentions this cooperation in terms of the principle of consultation with the Indians, and says:

> In connection with contemplated transfers of functional responsibilities to State or local agencies, this means that the views of the Indians to be affected will be sought and carefully considered before any final action is taken. In the development of comprehensive programs affecting specific Indian groups, the Bureau not only seeks the views of the Indians involved but encourages their maximum participation in the actual job of data analysis and program formulation. In fact, this Bureau's ideal concept of its role in program development is that of a consultant to the Indian groups. As a practical matter, however, it is recognized that much of the initiative and responsibility for program formulation will have to be assumed--at least in the early stages--by Bureau representatives.[37]

One notices now that the subjects discussed in the annual reports are always as a part of the general pattern of withdrawal activities. We read, for example, that

> [T]he Bureau took additional steps during the year to accelerate the transfer of responsibilities for educating Indian children to the regular public-school system of the country.[38]

that

> Similar activities were carried on looking to the transfer of responsibilities for the protection of Indian health from the Bureau to appropriate state or local agencies.[39]

or we are told that

> There is just as much reason to permit the passage and enforcement of local regulations in an Indian community as in any other American town or community. The Indians because of their peculiar legal status in the national life, derive much of their authority for local self-government by inherent right, as distinguished from cities which are chartered by states, but the powers exercised by the tribes and by the cities are similar.
>
> . . . . . .
>
> The Indian Office recognizes this situation and has for a decade prepared legislation proposals that would permit state law enforcement agencies to assume the responsibility in many parts of the country.[40]

Now with the statement that any withdrawal program affecting any particular Indian group must be preceded by and based on a compilation of all the relevant factual data, of which three studies were available--the reservation programs submitted in 1944, the Zimmerman report in 1947, and the information included in the response to the Myer's questionnaire in 1952--the Bureau policy of withdrawal was announced. We quote from a letter by the Commissioner of Indian Affairs:[41]

> 1. If any Indian tribe is convinced the Bureau of Indian Affairs is a handicap to its advancement, I am willing to recommend to the Secretary of the Interior that legislative authority be obtained from the Congress to terminate the Bureau's trusteeship responsibility with respect to that tribe.
>
> 2. If any Indian tribe desires modification of the existing trusteeship in order that some part or parts thereof be lifted (such as the control of tribal funds, the leasing of tribal land, as examples), and if the leaders of the tribe will sit down with the Bureau officials to discuss the details of such a program of partial termination of trusteeship, we will be glad to assign staff members to work with the group with a view to developing appropriate legislative proposals.
>
> 3. If there are tribes desiring to assume themselves some of the responsibilities the Bureau now carries with respect to the furnishing of services, without termination of the trusteeship relationship, we are prepared to work with such tribes in the development of an appropriate agreement providing

for the necessary safeguard to the tribe and its members.

The report then went on to name five different types of Indian groups on whom the actual programming activities were focused:

> First were those groupings in which a substantial number of Indians had expressed a positive desire to achieve full independence from Federal trusteeship and supervision in the near future. In this category were the Indians of California (except for the Agua Caliente Band of Palm Springs), the 41 bands of western Oregon formerly under jurisdiction of the Grand Ronde-Siletz Agency, and the Klamath Tribe of south-central Oregon. Specific legislation designed to facilitate complete withdrawal was developed in consultation with the first two groups and presented to the Congress but not enacted. While no legislation was drafted affecting the Klamath Tribe, a number of consultations on the question of Bureau withdrawal were held during the year involving tribal leaders, representatives of the Oregon State government, and Bureau participants.
>
> The second category included two tribes with substantial assets which are financing with tribal funds a major share of the cost of services and trusteeship provided for them by the Bureau--the Osage Tribe of Oklahoma and the Menominee Tribe of Wisconsin. Although both tribes indicated some initial reluctance to contemplate the prospect of Bureau withdrawal, a number of consultations were held with them during the fiscal year and efforts were being continued to elicit their active cooperation in the development of constructive programs.
>
> The third category might be called the Missouri Basin group. This includes seven tribal groups which will be more or less directly affected by various flood-control and irrigation projects planned for the upper Missouri Valley and which are consequently faced with the necessity of planning some readjustment in their living patterns. The seven reservations involved are Fort Berthold in North Dakota, Standing Rock in North and South Dakota, and Cheyenne River, Crow Creek, Lower Brule, Rosebud, and Yankton in South Dakota. Programming studies of one kind or another were carried on at all of these reservations during the year. The most intensive work, however, was done at Standing Rock and Cheyenne River.

In the fourth category were several Indian groups, more or less remote from local agency headquarters of the Bureau, which are currently receiving from the Bureau only nominal services and supervision. Groups of this kind which were studied by the Bureau in an exploratory manner during the fiscal year included the Sac and Fox of Iowa, the several Indian bands and tribes of Michigan, and a number of tribes in Kansas and northeastern Oklahoma.

The fifth category included an assortment of tribal groups such as the Southern Ute and Mountain Ute of Colorado, the Jicarilla Apaches of New Mexico, the Red Lake Band of Chippewas in Minnesota, the tribes under jurisdiction of the Winnebago Agency in Nebraska, and the various bands under the western Washington Agency. Programming discussions were held with all of these groups during the fiscal year 1952 and additional sessions are planned for 1953.[42]

In summary, certain goals set up by John Collier, although apparently repudiated by Congress in name, were kept in theory; and by the close of 1952 withdrawal proceedings had been started, based on the kind of appraisals and inventories of tribal resources and social adjustment suggested by John Collier. A program section of the Bureau had been organized, and transfer from the Bureau to other governmental agencies of other activities was stepped up. Pressure from the states for termination had been taken into the development of programs, and future patterns for action had been set. Collier's ideas were being adapted to programs and methods of implementing these programs that he could not happily claim.

FOOTNOTES

VI

[1] Charles J. Rhoads, and others. *Report of the Committee on Indian Affairs to the Commission on Organization of the Executive Branch of the Government*. October, 1948, pp. 71-72.

[2] Hearings of the U.S. Senate Indian Affairs Committee on the nomination of William A. Brophy to be commissioner, 79th Congress, 1st Session, February 20 to March 1, 1945.

[3] *Annual Report*, Secretary of the Interior (Washington, D. C., Government Printing Office), 1941, p. 451.

[4] *Ibid.*, 1942, pp. 294-96.

[5] John Adair, "The Navaho and Pueblo Veteran, A Force for Culture Change," *American Indian*, Vol. IV, No. 1 (1947) pp. 5-11.

[6] *Annual Report*, *op. cit.*, 1945, p. 233.

[7] *Ibid.*, 1946, p. 351.

[8] Taken from National Archives microfilm, August 13, 1958. Letter was written in September, 1945.

[9] 79th Congress, 1st Session, S. 1093 and 1194; H. R. 3681 and 4196.

[10] *Annual Report*, *op. cit.*, 1946, pp. 354-57.

[11] *Ibid.*, p. 352.

[12] *The Problem of Indian Administration*, Lewis Meriam, ed. (Baltimore, 1928) pp. 19, 468, 805-811,

[13] Felix S. Cohen, "Indian Claims," *American Indian*, Vol. II, No. 3 (Spring, 1945) p. 10.

[14] *The Problem of Indian Administration*, *op. cit.*, p. 468.

[15] Commissioner's Circular No. 3537 (November 15, 1943), p. 2.

[16] Ibid.

[17] Ibid.

[18] William E. Warne, "The Public Share in Indian Assimilation," speech before the annual meeting of the Home Missions Council of North America, Inc., January 6, 1948.

[19] Congressional Record. Vol. XCVIII, Part 2 (82nd Congress, 2nd Session) p. 2489.

[20] Ibid., p. 2492.

[21] Commissioner's Circular No. 3537 (November 15, 1943), p. 2.

[22] Annual Report, op. cit., p. 338.

[23] Ibid., p. 339.

[24] Theodore H. Haas, "The Rebirth of Indian Spirit and Action," address given before the Sixth Convention of National Congress of American Indians, Rapid City, South Dakota, September 22, 1949.

[25] Ibid.

[26] Annual Reports, op. cit., 1948, p. 380.

[27] Roger Ernst, "House Concurrent Resolution 108," Indian Affairs, No. 27 (July, 1958).

[28] The Problem of Indian Administration, op. cit., p. ix.

[29] Annual Report, op. cit., 1949, pp. 340-41.

[30] Ibid., p. 339.

[31] Acting Commissioner's Circular No. 3675, May 28, 1948.

[32] Annual Report, op. cit., 1948, p. 369.

[33] Ibid., 1949, p. 364.

[34] Undated memo from Commissioner Brophy in Bureau of Indian Affairs central files (probably early 1947).

[35] Annual Report, op. cit., 1951, p. 353.

[36] Ibid.

[37] Ibid., 1952, p. 393.

[38] Ibid., p. 390.

[39] Ibid.

[40] Warne, op. cit.

[41] Annual Report, op. cit., 1952, p. 393-94.

[42] Ibid., p. 394-95.

VII. THE TERMINATION CONTROVERSY: 1953-1961

In an address given on the anniversary of his appointment as Commissioner of Indian Affairs, Glenn L. Emmons termed the year as an "unusually full and significant twelve months, not only for me personally but in the whole broad field of American Indian life."[1] He mentioned that in response to a specific suggestion by President Eisenhower he made an extensive tour of the major Indian areas of the country in the fall of 1953.

> In giving me this assignment, the President recalled the pledge which he made during the 1952 campaign that there would be full consultation with the Indian people and emphasized that he wanted this to be a basic principle in our administration of Indian affairs. From that day to the present time we have continually stressed the importance of full consultation and have made it the keystone in the whole arch of our policy structure.
>
> The major purpose of my 1953 series of meetings with the tribal groups was underlined by the President in a letter which he wrote to me on September 2 of that year. Briefly stated, the primary aim of the tour was to learn first-hand from the Indian people themselves about their problems and needs, their hopes and aspirations. In other words, my assignment was to do a minimum of talking and a maximum of listening; and that is certainly the way I tried to carry it out.[2]

Besides being a valuable orientation course, the tour, he said, helped him in two principal ways:

> For one thing, it gave me a much broader view than before of the great scope and variety of American Indian life. It made me realize how wide and important the differences are not only between the various major regions of Indian country but even between one tribe and the next in a particular region. In the face of this tremendous diversity in living patterns and in economic status, I became more convinced than ever that you cannot apply the same yardstick to the nearly 250 tribal groups for which we have a responsibility in the Indian Bureau. Each one must be considered separately in its own setting and in the light of its unique possibilities and its special limitations. This is the approach which we are now

> taking in the Bureau of Indian Affairs in connection with all phases of our work.
>
> The other important advantage which I gained from my trip last fall was a first-hand insight into the types of problems that are of most concern today to the Indian people. Naturally, on a trip such as mine, as a new Commissioner of Indian Affairs, I heard about a great many problems from a large number of tribal members. Some of them were purely local difficulties and others were limited to a particular individual or his family. After the trip was over, however, I found that there were three big problems which stood out above all others and which constitute, as I see it, the major challenge that we face in the administration of Indian Affairs.[3]

The problems he mentions are important because on them are centered the positive steps taken in the direction of solution and improvement. The efforts of the Bureau of Indian Affairs were to be guided by them. The commissioner says:

> First is the problem of poor health which I found not in all tribal areas but certainly in a disturbingly high percentage. All of you, I feel sure, are familiar with the broad dimensions of the problem--the high rates of infant mortality, the great number of deaths and disabilities resulting from infectious diseases such as tuberculosis, and the comparatively short span of life expectancy in many tribal groups. In fact, the conditions which prevail are remarkably similar to those found throughout the United States rather generally 50 or 75 years ago. In other words, many of these Indian areas have been almost like islands and have been practically untouched by the great advances in public health protection which have taken place throughout the country during recent decades. To my mind, it is high time to start giving them the benefit of these protections which most of us take for granted in our daily lives.
>
> Another outstanding problem is represented by the more than 20,000 Indian children--including about 13,000 in the Navajo Tribe alone--who were unable to attend school last year primarily because of a lack of sufficient school facilities. While this problem is fortunately confined to a comparatively few tribal groups, it is nevertheless a matter of absolutely fundamental importance. Clearly we cannot afford to wait any longer and let these young

> American citizens grow up without the benefit of even an elementary education. Effective action must be taken right now to provide them with their birthright and to prevent the continuation of illiteracy into future generations.
>
> The third major problem which loomed up in my mind after the completion of my travels was the widespread poverty and shockingly low standards of living which I found on so many reservations. Unquestionably there are many factors responsible for this situation. Both poor health and inadequate education have played an important part. But the greatest difficulty, it seems to me, is the lack of sufficient opportunity for making a decent living in and around most of the reservation areas. The need, in short, is for a more vigorous climate of economic activity in these areas--a range of opportunities that will permit the Indian people to exercise their full productive powers and improve their economic status through their own efforts. As some of you may know, I have been concerned for a long time about the problem of economic insecurity as it affects the tribes in this southwestern region. My travels last fall and my year in office have convinced me that the problem is by no means confined to this part of the country and that it should be attacked on the broadest possible front. While the matter is perhaps less immediately urgent than the health and education problems, I have been giving it a great deal of personal attention and want to tell you later on about the encouraging progress that has been accomplished.[4]

The commissioner reassured Indian groups everywhere that programming by the Bureau would be determined on the basis of individual tribal and regional need and that every opportunity would be afforded to them for consultation and close participation in all aspects of program planning affecting them. In fact, those aspects of policy were formally set forth in a letter of September 2, 1953, from President Dwight D. Eisenhower to the commissioner, and the latter read the presidential letter to groups he visited in order to fully reassure them.

In an address given in 1956, Commissioner Emmons, who was again making extensive travels through the West for the purpose of attending a series of meetings with Indian tribal officials, referred to his philosophy of what needed to be done in the field of Indian affairs by outlining the specific steps that were taken to overcome the three major problems mentioned above. He had this to say:

> On the health side our first action was to strengthen and

> expand greatly the disease prevention and sanitation phases of our work. Then we followed this up with a long-range look at the whole health picture among the Indian people. One fact which stood out clearly was that the Bureau of Indian Affairs had never managed to get really on top of the Indian health problem. Chronically the Bureau had had difficulties in recruiting and retaining well-qualified medical personnel for service in reservation areas; chronically it had been borrowing most of its key personnel from the United States Public Health Service. Since the big need was for a greatly invigorated drive in preventive medicine and since the Public Health Service is especially expert in this field, we felt that the logical move was a transfer of the whole Indian health program over to that agency. So we violated all the generally accepted rules of bureaucratic behavior and actually urged the enactment of congressional legislation which would shift over to another branch of Government something like one-fourth of all our personnel and an inventory of real and personal property valued at about $40 million. This legislation was approved by the President in early August of 1954 and about eleven months later, on July 1, 1955, the transfer was completed.[5]

On another occasion the commissioner was able to report how he felt the transfer had worked out:

> Since the transfer took place, the appropriations for the program, including construction, have been substantially increased and are now nearly twice as large as they were in the fiscal year 1955. The number of doctors working on the program has been nearly doubled; the number of public health nurses has increased by one-third; and the health education and sanitation staffs have been significantly enlarged. Even more important perhaps, these increases in funds and personnel have begun to produce measurable results in the health of Indian people.
>
> Take tuberculosis, for example, which was for so many years the Number One killer among the Indian population. Since the 1955 transfer the number of new cases among Indians in the continental United States has dropped by 30 per cent and the Indian tuberculosis death rate has been reduced by approximately one-fourth. The list of tuberculosis patients waiting for hospitalization, which numbered in the hundreds three years ago, has now been eliminated entirely. Beds are available for all. During this same period the death rate from gastro-enteric diseases--one of our real

> Indian problems, as you probably know--has been cut approximately in half, from 50.4 to 26.5 per 100.000 population, and the crucially important infant death rate has dropped by 17 percent.
>
> These facts and figures and others like them that could additionally be cited do not mean, of course, that all Indian health problems have been solved and that nothing more remains to be done. Far from it. But they do represent an impressive measure of progress that has been achieved over the past three years and I am frank to say that the benefits accomplished in this period for the Indian people have exceeded even my most optimistic expectations. The only real grounds for regret we now have, as I see it, would be that this responsibility was not transferred to the Public Health Service some 10 or 20 years ago.[6]

The second problem area as identified by the commissioner was education. The biggest and the most urgent area of need was the large Navajo Reservation where 80 per cent of the adult population was illiterate and roughly 50 per cent of the children between the ages of 6 and 18 were potential illiterates of the future. The commissioner outlines the action his department took to alleviate the problem:

> To bring this critically important problem under control as quickly as possible, we initiated an emergency program in the early months of 1954 involving several different lines of approach. We expanded and enlarged our Federal school facilities for Navajos both on and off the reservation. We provided board and room in border towns such as Gallup, Flagstaff and Winslow so that Navajo children beyond the early grades could attend the public schools of these communities.
>
> Now let's take a quick look at the results. When we started planning on this program in the winter of 1953 and 1954, the total enrollment of Navajo children in schools of all kinds was probably between 14,000 and 15,000. We have to say "probably" because the exact figure for public school enrollment that particular time is not available to us. But we do know that the enrollment this past school year was well over 25,000 and that no Navajo youngsters were turned away from the schoolhouse doors because of lack of space. This fall we are completely confident that school seats will be available for all Navajo children of school age including the increase which is, of course, constantly taking place.

> In the meantime we have also started a program for the benefit of those adult Indian people who missed the advantages of education in their youth. As some of you probably know, this is a critical problem in several tribal groups such as the Seminoles of Florida and the Papagos of Arizona. The program which we launched on a pilot basis last October is confined to five tribal areas--the Dakota, the Fort Hall Indians of Idaho, and the Rosebud Sioux of South Dakota. Here again it is still too early for any final assessment of results but the preliminary reports are encouraging and indicate a steadily growing interest among the tribal members. As we have already announced, the program will be extended to other tribal areas wherever there is a demand for such activity within the general framework of available funds and personnel.[7]

The direction education has taken--from the control of the federal government to that of state or local control--is emphasized in some remarks made by Secretary of the Interior Seaton in 1960:

> We have also emphasized the importance of providing the Indian children, wherever possible, and wherever desired by tribal groups, with a public school rather than a Federal school education. Our purpose in that respect is to give these youngsters the advantages of mingling fully and freely with their non-Indian neighbors during their formative years, so that they will be better prepared for the contacts and the competitions that inevitably come in later life.
>
> You will be interested to know that whereas the enrollment of Indian children in our Federal schools has increased by only eight percent since 1953, enrollment of Indian children in public schools has jumped almost 50 percent. In the long run, this shifting of emphasis in the public school direction may well turn out to be as second in importance only to the gross increase in enrollment which has taken place over the past seven years.[8]

The commissioner felt, because of improvements and advances in the other two problem areas, that more attention and energy could be spent on the third problem: that of providing them with the same kind of opportunities for economic advancement--for making a decent livelihood and improving their living standards, which Americans of other races normally and typically enjoy. Solutions and studies and proposals were many, he said, but he went on to analyze two which seemed to arouse rather widespread support:

One is the proposal that there should be a tremendous expenditure of Federal funds to build up the land resources of the reservations and develop a farm and livestock base for the Indian people.

As I see it, there are three serious deficiencies in this proposal to build up the whole economic future of the Indian people around the resource base on the reservations.

One is the fact that on most reservations there simply is not enough land to go around. Just as one example, if we should divide the whole Pine Ridge Reservation in South Dakota up into economic-size livestock units, it would provide an acceptable standard of living for just about 500 families living on the reservation right now and the population is growing all the time.

The second serious deficiency is that there are definite physical limits to what can be done in the way of resource development. Irrigation projects, to pick one example, cannot be located wherever we might like to have them. The lay of the land, the soil type, and many other factors have to be considered. And so it goes with other types of resource development work. Actually I am not aware of one single instance over the past three years where the Indian Bureau has ignored or rejected a really feasible and practical proposal for resource development that could be carried out with the funds available. During this same period our appropriations for resource activity have increased by 51 percent--from less than 11 million dollars in fiscal 1953 to approximately 16 1/2 million at the present time. The fact is that we are constantly seeking out potential projects for the development of reservation resources, exploring the possibilities, and doing everything that can feasibly be done. If you examine the matter closely, you will certainly find that a great deal has been accomplished in this field over the past several years. And I can assure you that much more will be done in the future. I am not by any means writing off or de-emphasizing the importance of sound resource development. But I do believe that the "shotgun" type of approach which has been proposed in some quarters would be both wasteful and ineffective.

The third deficiency in this heavy emphasis on the importance of Indian land resources is perhaps the most important one of all. I realize that there are many humane and warm-hearted individuals in this country who like to think of the Indians as a people of the soil and who grow quite distressed about the prospect of Indians working in factories or taking up homes in some of our larger cities. But the fact is that it's probably a minority segment--and perhaps a rather small minority--of our whole Indian population which has any real interest in or aptitude for making a living by agriculture. For over 25 years now the Bureau of Indian Affairs has had an agricultural extension program to provide Indian people with help and guidance in the field of farm and livestock management. Many loans have been made available for this purpose; much assistance and encouragement have been provided. Yet what do we find? Over wide stretches of Indian country the Indian who actually works his own land and makes his livelihood from crop or livestock production is the exception rather than the rule. In many cases, of course, this pattern of the Indian as a petty landlord collecting his rent rather than operating his own land is a result of the terrific fractionation of allotted lands which has come about over the years through the process of inheritance. But another, and perhaps even more important, factor is that large numbers of the Indians, particularly in the younger generations, have no real feeling of a tie with the soil and no desire to follow an agricultural way of life. This is not just theory; it is based on interviews conducted in our Indian Bureau schools and on many other types of direct contact by our personnel with the rank and file of tribal members.

In addition to the proposal for a massive development program on the reservations, there is another, closely related, idea which I want to discuss more briefly. This is the concept that the economic salvation of the Indian people lies principally in making loans to them on cheap and easy terms. I recognize that Indians, in some circumstances, have a need for special credit facilities tailored to their own requirements and we are continuing our credit program in the Bureau for just this purpose. However, I never have believed and do not believe today that the Government should be called upon to finance unsound enterprises as a way of improving the Indians' economic status.

The program to provide Indians with greater economic opportunity which we have developed in the Bureau is based not on theoretical or abstract considerations but on the realities as we find them. One set of realities that guides us is the potentialities and limitations inherent in the 54 million or so acres of land which the Indian people now have available for development and use. Another is the actual desires and aspirations of the Indians themselves. The program, as we have worked it out, consists of three main parts.

The first of these involves cooperative action by tribal representatives and Bureau employees to develop those constructive reservation programs which I mentioned near the beginning of this talk. Each of these programs as we visualize it, would be aimed at the fullest practicable development of reservation resources and at general improvement of the economic climate on the reservation proper. Each would be based on a careful and thorough analysis of the local factual situation.

. . . . . .

The second major phase of our economic opportunity program involves the establishment of private manufacturing plants in the near vicinity of reservation areas. It is an important part of the whole program because of two underlying facts which I have already mentioned.

. . . . . .

The third phase of the program is what we call voluntary relocation. As some of you may know--if you have been reading your magazines lately--that word "relocation" seems to upset certain people--apparently because it suggests uprooting the Indians from their serene pastoral environment and plunging them down in some kind of a nerve-wracking asphalt jungle. Actually, relocation of Indian people away from the reservations is not new at all. For at least a generation, and probably longer, Indian families have been moving away from the impoverished environment of reservations and seeking better opportunities elsewhere. And I have no doubt that they would still be doing so in increasing numbers even if the Bureau of Indian Affairs had never established a voluntary relocation program. The main trouble with the earlier unassisted relocation movement was that the migrating Indian too often ended up in a slum environment and found himself eventually defeated by the complexities of big-city life.

> It is precisely this kind of situation that we are trying to avoid through the Bureau program.
>
> . . . . . .
>
> And now I would like to recapitulate and summarize very briefly the major points in our program. First, we have taken the necessary steps in health and education to insure that Indian people will be as well equipped as possible physically and mentally, for a more productive and enjoyable kind of living than many of them have known in the past. Through resource development and encouragement of industry, we are working to provide the highest possible level of economic opportunity in and around the reservations. Through guidance and help in voluntary relocation, we are furnishing a productive and beneficial outlet for what may be termed "the surplus population."[9]

Actual governmental approval of termination as a policy to be placed in effect came in 1953 with the passing of House Concurrent Resolution 108 which passed through both houses of Congress. This important resolution spelled out the intention of Congress to make the Indians of the United States, as rapidly as possible, subject to the same laws and entitled to the same privileges and responsibilities as other citizens.

It further stated the "sense of Congress" that nine specifically designated groups of Indians should be freed from federal supervision and control at the earliest possible time.

Lastly, the resolution called upon the Secretary of the Interior to submit recommendations for legislation which would accomplish the purpose of the resolution with respect to the designated groups.

The basic policy of terminating governmental supervision over the American Indians was not new to this period, as we have pointed out in preceding chapters. Steps which would lead to such termination had been taken during various administrations, but to determine that the day for severing all wardship ties with the federal government had actually arrived seemed unbelievable. Congress outlined the termination policy and the Bureau of Indian Affairs complied. At the time the resolution was undergoing debate on the floor of Congress, Senator Wesley A. D'Ewart of Montana made the following remarks:

> Insofar as this is a concurrent resolution, only expressing the sense of the Congress, it is not an act, it does not take away any right from Indians whatsoever. It is simply an expression of the sense of the Congress that we should end trusteeship and wardship. A resolution such as this has never been directed to the Bureau of Indian Affairs. We think there should be a directive of the objective that we expect the Indian Affairs Bureau to follow in ending wardship and trusteeship. This is nothing more than an expression of the sense of the Congress that we should proceed toward that end.[10]

Senator Harrison of Wyoming, in the same discussion of the proposed legislation, went on to say that

> . . . House Concurrent Resolution 108 is intended as a directive from Congress to the Bureau of Indian Affairs to start working itself out of a job--which, after all, was the original intent when the Bureau was created.[11]

Since Resolution 108 asked the Bureau through the Interior Department to submit necessary legislation, the annual report for 1954 explained the action taken:

> In compliance with this mandate, the Bureau consulted with the Indian groups involved as fully as time permitted in the fall of 1953 and then sent forward legislative recommendations designed to achieve the intended purpose. These were transmitted to Congress by the Department at the beginning of the 1954 congressional session. The recommendations covered the Indians of California, Florida, New York, and Texas; the Flathead Tribe of Montana; the Klamaths of Oregon; the Menominees of Wisconsin; the tribes of Kansas and Nebraska under jurisdiction of the Bureau's Potawatomie field office; the Chippewas of the Turtle Mountain Reservation in North Dakota; and one additional group not included in the concurrent resolution--the Indians of western Oregon. Legislation for the latter group was submitted without regard for the congressional mandate since the Indians had on several occasions expressed a desire for early termination of Federal trusteeship over their property and affairs.
>
> In addition to these recommendations submitted by the Department, three other bills designed to terminate Federal responsibilities for particular Indian groups were introduced during the congressional session--one covering a number of

> small bands and groups in Utah, another involving several of the Indian colonies and reservations in Nevada, and the third providing for a division of assets between the mixed-blood and full-blood elements on the Uintah-Ouray Reservation in Utah. This last bill was regarded as particularly significant since it was developed chiefly by the Indians themselves with only incidental help from the Bureau. Under its provisions Federal responsibilities for the mixed-blood group on the Reservation would be terminated in 7 years and a development program for the full-blood segment would be authorized to prepare them for assumption of full independence at a later date.[12]

This action by congressional request at once brought protest from various corners. The Washington Post had this to say, for example:

> Congress has run into a storm of protest against some of the Indian bills it has under consideration. When hearings on the so-called termination bills were held recently, tribes from 21 states and Alaska are said to have sent to Washington the largest gathering of Indians ever to appear here. Complaints are continuing to flow in by mail and telephone and personal visits. Some of the tribes appear to be almost frantic over the suggestion that they be freed from Indian Bureau supervision--and aid.
>
> In general we sympathize with the long-range aims of the administration to "get out of the Indian business." But it cannot be accomplished overnight. Certainly the Government ought not to withdraw the special aid and protection it has given the tribes on reservations until they are prepared to manage their own affairs. The vice in some of the bills now being considered is that they disregard the wishes of the Indians as well as the illiteracy and unpreparedness of the members of some tribes to make a living in competition with other Americans.[13]

Other sources were not so restrained in viewing the intended congressional actions. Commenting that making the Indians assume their full responsibilities as American citizens was a good thing, although saying it tongue-in-cheek, one article stated:

> Ask the Indian. He says it means he will have to pay taxes on his land, and that this is unjust. Why shouldn't he pay taxes on his land? He says its tax-free status was bought by him when he made concessions of larger territories on condition that this land was to be his without

conditions. He asks what the holders of tax-free municipal bonds would say if the government were suddenly to make them "assume their full responsibilities as citizens" by paying taxes on these bonds.

He inquires what manufacturers who have built plants for national defense after being promised tax concessions would say if suddenly Congress were to decide they had to pay taxes on these buildings. He points out that educational institutions, cooperatives and churches are not taxed; that owners of oil wells do not have to pay taxes on 27 per cent of their output as a depletion allowance. All these concessions were made for reason, the government receiving full value for the concession. The government has also received full value from the Indians, as expressed in nearly 400 treaties. But H. R. 108 means that Congress declares it is the policy of the United States to renounce its end of these bargains without returning to the Indians the valuable considerations they gave for this exemption.[14]

Some arguments against termination were thus motivated by honest inquiry into the rights of American Indians, but many were motivated by a fear of complete abandonment by the government. We read these words, for example, from a Montana Chippewa:

> We can't make it without the Federal Government. A few of us have made it maybe, but not whole tribes. Chief Little Shell's people, who were terminated out of North Dakota, my own tribe could not make it.[15]

Or we read these statements given in Montana by a Justice of the State Supreme Court:

> The Indian communities would have been stripped of the protection of their forests, their lands, their power sites, their cattle, their homes, and other possessions. The break would have been swift and complete. It would have ended the joint commitment of Indian and federal government set forth in treaties and contracts to work out the future of the Indian in American partnership. It would have left the majority of the Indians practically helpless before local discrimination and wily individuals. Where is our national Christian conscence [sic] ? Are we suffering from spiritual hemorrhage?
>
> The policy was to have declared an Indian no longer

> an Indian and to abandon him completely as far as our national government is concerned.[16]

Senator Goldwater, in a statement on the floor of Congress, made the following statement in the face of such criticism as above:

> It is high time we eradicated the completely false impression that Congress intends to abandon these citizens regardless of whether or not they are ready to care for themselves.[17]

In closing his remarks he made this statement:

> . . . I wish to state from a lifetime of experience with American Indians that the American Indian has progressed farther and faster during the years of this administration than under any other administration, to my knowledge.[18]

And so the controversy raged on. In commenting on the termination bills drawn up under the provisions of the resolution, Harold E. Fey, adopting one of the lines of argument outlined above, said:

> The bills deriving from H. R. 108 do more than withdraw federal trust from Indian properties placed on tax rolls. They also terminate the application of the Indian Reorganization Act of 1934, abolish tribal constitutions and corporations based on that law, abrogate federal-Indian treaties, and impose the breakup of tribal properties into individual parcels. But the basis of the Indian's apprehension is that these bills threaten his land. He remembers what happened as a result of the Indian Allotment act of 1887: Indian landholdings shrank from 139 million to 48 million.[19]

At first Commissioner Emmons appeared cautious in his views of pending termination legislation. Speaking before the National Congress of American Indians, he stated:

> If we are to be realistic, all of us must recognize, I believe, that there is inevitably a certain degree of impatience in Congress about Indian affairs. There is also a tendency on the part of some members to write the whole problem off as insoluble and to liquidate it in one sweeping piece of legislation. Nobody, I assure you, is more deeply

> concerned than I am about the prospect of such legislation or more keenly aware of the tragic disaster it would almost certainly bring to the lives of thousands of Indian people. I will, I promise you, oppose any such bill with all the strength and all the resourcefulness I have.
>
> But I believe there is a wrong way and a right way to head off such hasty and ill-considered legislation. The wrong way, as I see it, is to sit tight, agitate endlessly against terminal legislation, and insist on an indefinite continuation of the status quo. To speak bluntly, I can think of nothing that would be more likely to bring about just the kind of legislation we are trying to avoid. On the other hand, if we in the Bureau and you in the tribal groups will sit down together and cooperatively develop constructive and forward-looking programs, then I believe we can reduce the dangers of rash and premature legislative action to the absolute minimum. Our aim, in other words, should be to convince the United States Congress that progress is being made in Indian affairs--that we are not simply sitting back and clamoring for bigger and better appropriations and that we are moving steadily ahead in the direction of greater Indian responsibility and fuller Indian independence.[20]

Later, Commissioner Emmons defended the program of giving the Indians unrestricted control over their property and full responsibility to manage their tribal and individual affairs. Speaking in July of 1955 he said:

> Just ten days ago the Alabama and Coushatta Indians of Texas became the first tribal group in recent history to move outside the scope of Federal trusteeship and Federal laws especially applicable to Indian people. Five other groups covered by roughly similar laws enacted by Congress last year are now at work on specific plans and programs which will eventually give them unrestricted control over their property and full responsibility to manage their tribal and individual affairs. And right here I want to emphasize that these readjustment laws were not designed, as some have contended, to break up the tribes or dissipate their land resources. Under the terms of the acts the Indians have every opportunity to maintain their tribal lands intact and continue managing them on a group basis if they wish to do so. They can do this either through a corporate body organized under State law or through a private trustee of their own selection. The groups involved

> are the western Oregon Indians and four Paiute bands of Utah, who have a little over one year left for completion of the readjustment process; the Klamath Tribe of Oregon and Menominees of Wisconsin, who still have more than three years to go; and the mixed blood people of the Uintah-Ouray Reservation in Utah, who are planning in terms of a final separation from Federal controls by August, 1961.[21]

In an address delivered toward the end of 1954 Commissioner Emmons summed up what he termed a "highly significant year in the field of Indian Affairs." In the face of much public discussion of terminal legislation, Mr. Emmons said several important facts stood out:

> First, it is clear that the legislation was most carefully considered by Congress and adjusted in numerous ways to meet the particular requirements and recommendations of each group affected. Secondly, there is nothing here to suggest that Congress is engaged, as some have contended, in a massive drive to break up the tribal estates and destroy the foundations of Indian tribal life. Under these enactments the Indians have every opportunity to preserve their holdings intact and continue managing them on a group basis if they wish to do so. Thirdly, there seems to be a strong tendency on the part of Congress, as illustrated in the Uintah-Ouray legislation, to differentiate between those Indian groups clearly ready to assume full management responsibilities and those who will need additional guidance and protection.
>
> Furthermore, Congress has already recognized quite explicitly another problem in connection with termination which I am sure all of us have in mind. This is the fact that even in tribes which are generally well advanced and more or less ripe for a readjustment program, there frequently are individual members who need some type of special training or education to equip them for the assumption of full citizenship responsibilities. Congress, as I say, has recognized this problem and has made available an appropriation of $1,000,000 specifically to provide such training, where needed, for the members of tribes covered by termination laws.[22]

By 1958 Commissioner Emmons was rather profuse in his evaluation of House Concurrent Resolution No. 108:

. . . I have no hesitancy whatever in calling it one of the most valuable and salutary Congressional measures we have had in Indian Affairs for a great many years.

I say this because H. Con. Res. 108 is basically a notification to the Indian people that "some day they are going to reach the age of 21" and that they should start planning, thinking and preparing themselves for the responsibilities that necessarily go with full freedom and unrestricted ownership of their individual and tribal properties. Obviously, this was like a very cold plunge to many of the Indians who had been lulled into feeling that the Government would continue serving indefinitely as their trustee. But it was, in my estimation, a most healthy kind of a plunge and I firmly believe that to repeal it now, as advocated in some quarters, would be a tragic disservice to the future welfare of the Indian people.

Contrary to the impression which many people seem to have and some are deliberately spreading, the policy of the present Administration does NOT call for hasty termination of Federal trust responsibilities in Indian affairs. Rather, it emphasizes the need for thorough study, careful planning, and full consultation with the Indians, tribe by tribe and group by group. It also recognizes and stresses the right of the Indians to continue holding their lands in common and maintaining their tribal organizations for as long as they wish after the Federal trusteeship has been terminated.

Actions taken by Congress pursuant to H. Con. Res. 108 over the past four years indicate clearly that these policies are fully in line with Congressional thinking on the subject. However, since there has been some confusion and doubt on the matter of tribal rights after termination, I am urging that Congress formalize the policy which has actually been followed by some type of resolution or declaration at the next session.

Basically, it seems to me, that the relationship between the United States Government and the Indian people on reservations can be likened in some respects to the relationship which so many of us have as parents toward our own children. During the formative years and while they are still unsophisticated in the ways of the world, we shelter the children from the assumption

> of responsibilities and make most of the more important decisions on their behalf. At the same time, however, if we are good parents, we also make it clear that the time will come when they must be prepared to stand on their own two feet and face the world unafraid.[23]

One of the important projects during this period of time was the development of drafts of terminal legislation in compliance with the congressional mandate of House Concurrent Resolution 108. In carrying out this assignment, Indian Bureau personnel followed three major steps:

> (1) A preliminary draft of a proposed bill, covering each of the designated Indian groups, was developed solely for discussion purposes by area directors, superintendents, and central office staff; (2) representatives of area and agency offices arranged for meeting with Indian people, officials of State and local governments, and other interested persons to discuss with them the preliminary draft and invite an expression of their views and suggestions; and (3) proposed bills and basic information relating to the Indian groups were prepared and submitted to Congress through departmental channels.
>
> Basically, however, all the bills were designed to accomplish three specific purposes; (a) terminate Federal trusteeship over tribal and individual property; (b) terminate special Federal services, and (c) give Indians the same status as other citizens in the States in which they reside.
>
> Certain features were common to practically all of the bills. One of these was a provision making the tribe responsible for preparation of a tribal roll but also giving individual members the right of appeal to the Secretary. When the final roll is established, each member of the tribe is given a personal property right in the undivided tribal assets and, after termination of trusteeship, may dispose of his individual interests as he wishes. As far as the tribal group is concerned, it may either organize into a corporation for the continued management of its property or arrange for a transfer of title to a trustee of its choice. If the tribe fails to exercise an option, the Secretary will transfer title to a trustee of his choice for liquidation purposes only, with the understanding, however, that for an additional period

> of 6 months the tribe may still select a course offered under the option. The bills also provide that individually owned property is to be transferred to the respective owners and that all trust patents will be converted into fee patents on a specified date. They stipulate that the Secretary is to protect the rights of any individuals who are not able to manage their own affairs, and provide finally that when the Federal trust is terminated, the Secretary is to publish a proclamation to that effect and the Indians concerned will be in the same status as other citizens and have all the rights, privileges, and responsibilities.
>
> The time period for completing the adjustment programs under the proposed legislation varies from 2 to 5 years, depending upon the time needed for an orderly transition and adjustment.[24]

The annual report for 1955 reports on the progress of termination bills as introduced in Congress:

> Another major step toward the narrowing of Bureau responsibilities was the enactment of six laws in the 1954 congressional session providing for orderly termination of Federal property trusteeship and special services in specific tribal jurisdictions. One of these, covering the Menominee Tribe of Wisconsin, became law toward the end of the fiscal year 1954. The other five--all approved in August 1954--involved two jurisdictions in Oregon (Klamath and western Oregon), two in Utah (four small Paiute Bands and the mixed-blood population of the Uintah and Ouray Reservation), and one in Texas (the Alabama-Coushattas).
>
> The period of time allowed in these laws for completion of the termination process was indefinite for the Alabama-Coushattas, 2 years from the date of enactment for western Oregon and the Paiute Bands, 4 years from enactment for Klamath, until December 31, 1958, for Menominees, and 7 years from enactment for the people involved at Uintah and Ouray.[25]

The annual report for 1957 brings the information more up to date by giving us the following information:

> Of the six groups covered by readjustment laws passed in 1954, two more reached the stage of final severance

> from Federal trusteeship. These were the coastal Oregon tribes of the former Grand Ronde-Siletz jurisdiction and four small Paiute bands of Utah. The Alabama-Coushatta group of Texas had already moved out from under Federal trusteeship one year earlier. This left the Menominee of Wisconsin, the Klamath of Oregon and the "mixed blood" Utes of Utah still facing terminal dates in the comparatively near future. Three additional groups--the Wyandotte, Peoria and Ottawa Tribes of Oklahoma--are now covered by readjustment laws enacted during the year in response to their own requests.[26]

On September 18, 1958, Secretary of the Interior Seaton made an address over the radio from Flagstaff, Arizona, in which he attempted to clarify the department's position on the centrally important question of terminating federal trust responsibilities for Indian tribal groups. He specifically mentioned the various attacks launched against H. Con. Res. No. 108 and the impression created by some interpreters that Congress and the Department of Interior intended to abandon Indian groups regardless of their ability to administer their own affairs. After stating that he felt the qualifying phrases of the resolution such as "at the earliest possible time" and "at the earliest practicable date" were intended by Congress to state an objective and not an immediate goal, the Secretary said:

> To be specific, my own position is this: no Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated--first, that it understands the plan under which such a program would go forward, and second, that the tribe or group affected concurs in and supports the plan proposed.
>
> Now, ladies and gentlemen, it is absolutely unthinkable to me as your Secretary of the Interior that consideration would be given to forcing upon an Indian tribe a so-called termination plan which did not have the understanding and acceptance of a clear majority of the members affected. Those tribes which have thus far sought to end their Federal wardship status have, in each instance, demonstrated their acceptance of the plan prior to action by the Congress. I shall continue to insist this be the case and I hope and believe that Congress and its leaders will pursue the same course. To make my position perfectly clear, as long as I am Secretary of the Interior, I shall be dedicated to

> preserving the principle which I have just enunciated.
>
> . . . . . .
>
> To me it would be incredible, even criminal, to send any Indian tribe out into the stream of American life until and unless the educational level of that tribe was one which was equal to the responsibilities which it was shouldering.[27]

This pronouncement had the effect of slowing down the termination fervor which had reached its peak in 1953 and the months after the passage of House Concurrent Resolution 108. Termination proceedings had only slowed down, however, and had not stopped completely. The annual report for 1961 reports that besides the Indian groups before mentioned, federal trust relations were also ended under tribally developed plans on seven small rancherias of California. Progress ending in termination was reported for the Klamath Reservation in Oregon, the Uintah-Ouray Reservation in Utah, the Catawba Reservation in South Carolina and 31 additional California rancherias. From a further report on the Menominee Tribe, which terminated in 1961, we read of the course termination legislation had taken. Note that the claim that Congress was unwilling to listen to additional testimony and make changes in its decisions cannot be upheld. The report states:

> In September 1960 Congress amended the original 1954 termination act for the fourth time by granting the tribe an extension of the trust period from December 30, 1960, to April 30, 1961, but directing the Secretary to begin negotiations for private trustees immediately in order to be prepared to act in the event the tribe had not organized under its own termination plan by March 1, 1961.[28]

For its interesting insight in the program of final termination of an Indian tribe, I quote the comment on the Menominee termination:

> All provisions of the 1954 act having been complied with, Secretary Stewart L. Udall on April 29, 1961, proclaimed in the Federal Register the "termination of Federal supervision over the property of the Menominee Tribe of Wisconsin and of the individual members thereof" effective midnight April 30.

He also had published in the Federal Register the text of the "Plan for the Future Control of Menominee Indian Tribal Property and Future Service Function." This was important not only as a matter of public information, but was vital in the creation of Menominee County. Chapter 259 of Wisconsin's Laws of 1959 had provided that the State's 72d county should come into existence on the date of publication of the termination plan in the federal Register, as required by the Act of June 17, 1954. On May 5, 1961, at Keshena, Governor Gaylord A. Nelson swore in and installed the first board members and officers of Menominee County and Menominee Town.

Meanwhile, early in 1961, bills had been introduced in Congress to postpone again the date of termination and to provide various types of Federal assistance to the Menominees following termination. As April 30 passed before action by Congress, there was no delay in the termination date. H. R. 4130, providing for a loan to Menominee Enterprises, Inc., and Federal aid to the State in providing essential education, health, and welfare services to the Menominee during the period of transition was still pending in conference between the Senate and House as the fiscal year ended.[29]

Another phase of the readjustment program, a term employed because Commissioner Emmons is said to have disliked either "termination" or "withdrawal,"[30] was the enactment of Public Law 280. This law, passed on August 15, 1953, was hailed as one of the major developments contributing to a reduction of federal responsibility in Indian affairs. The comment of the annual report for 1954 is as follows:

> This law brought Indian lands in California, Minnesota (except the Red Lake Reservation), Nebraska, Oregon (except the Warm Springs Reservation), and Wisconsin (except the Menominee Reservation) under the criminal and civil jurisdiction of the five States mentioned and largely relieved the Bureau of further law enforcement duties in the affected areas. Some staff work was necessary, however, to facilitate the transition toward full assumption of jurisdiction by the States. The transfer, which was approved in advance by all five of the States and by the major Indian groups involved, produced no serious or outstanding problems during the fiscal year.[31]

Basically Public Law 280 was aimed at the rather confusing situation which prevailed in many Indian areas because they were located outside the ordinary jurisdiction of the state courts both in criminal cases and in civil actions. Essentially these Indian areas are islands of federal or tribal jurisdiction surrounded by lands where normal state jurisdiction is in effect. While this unique pattern has worked fairly well in some areas, in other places it has led to a great many complicated legal problems and has often deprived the Indian people of the kind of effective law enforcement to which they are entitled.

The Bureau of Indian Affairs had been discussing this problem rather widely both with the Indian tribes and with the law enforcement officials of the several western and midwestern states involved. In five of the states--California, Minnesota, Nebraska, Oregon, and Wisconsin--the Bureau found that most of the Indian tribes and practically all of the state officials involved were agreeable to a transfer which would put the Indian areas clearly under the jurisdiction of the state courts in both criminal and civil matters. Accordingly, a number of bills that would accomplish this purpose were proposed to the Congress by the Department of the Interior, and these were eventually consolidated into Public Law 280. The jurisdiction given to the states was subject to a number of important limitations designed to preserve the trust protections which now surround Indian property, to maintain for the Indians any treaty rights they may have such as those involving hunting and fishing privileges, and to give full force to civil actions to tribal customs insofar as they are not in conflict with the state law.

There was a special provision by the bill which caused concern to various Indian groups. This controversy is reported as follows:

> An amendment was made to the bill before enactment which provided for the assumption of jurisdiction by additional States over Indian country. This amendment was criticized by a number of Indian groups because it did not provide for Indian consent or consultation and they urged the President to veto the bill for that reason. When the President approved the bill, he stated that he did so because of the fact that its basic purpose represented an important step in granting complete political equality to Indians. At the same time, however, he requested the Congress to enact an amendment requiring consultation with Indian groups and Federal approval before additional

States acted to assume jurisdiction under Public Law 280.[32]

Sections 6 and 7 of the law, authorizing any other states to take over jurisdiction on its Indian lands without the consent of the Indians involved, were opposed by Indian and Indian rights organizations. Although these sections seemed undesirable to the President when he signed the law, no bill was offered subsequently by his administration expressing this dissatisfaction.

The arguments used by Indians and Indian rights organizations centered around the "self-evident" truths embodied in the Declaration of Independence: "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." One source argued:

> The principle of consent is vital to the welfare of democracy and essential to the health of religion. Consultation without the necessity of attaining consent is at best an empty gesture. At its worst it is a mask for coercion, which is the opposite of consent.[33]

With the basic assumption that Indians are American citizens primarily and not members of Indian tribes, the stand of the government is given by Interior Secretary McKay:

> Now let me say a few words about the principle of Indian "consent" which you emphasized toward the end of your letter. We must start, I believe, with the fact (stressed in your letter) that Indians are citizens and now have the privilege of the ballot in all 48 states. This means that they are represented in Congress just as other citizens are and that they have the same rights (which they frequently exercise) of petitioning the Congress and of stating their views before Congressional committees considering legislation. What you are proposing--and let us be quite clear about this--is that, over and above these normal rights of citizenship, the Indians should also have a special veto power over legislation which might affect them. No other element in our population (aside from the President himself) now has such a power and none ever has had in the history of our country. In short, it seems to me that the principle of Indian "consent" which you are urging so strenuously

> has most serious Constitutional implications. With full respect for the rights and needs of the Indian people, I believe it would be extremely dangerous to pick out any segment of the population and arm its members with authority to frustrate the will of the Congress which the whole people has elected.[34]

This view was expressed by the secretary in a letter to Oliver La Farge, president of the Association on American Indian Affairs, Inc., in response to a letter written to President Eisenhower by Mr. La Farge. There has been no official congressional declaration on the matter of consent, but we have referred to the policy of consultation at some length elsewhere in our discussion.

In reviewing the challenges facing those interested in Indian affairs, George W. Abbott, the solicitor of the Department of the Interior, made some interesting remarks:

> As an apparent outgrowth of the passage of Public Law 280, and other legislation, in 1953, at the close of the first session of the Eighty-third Congress, there was a good deal of confusion generated by certain self-styled spokesmen for the Indian. There were criticisms of actions taken by Congress, accusations of efforts to "destroy" the Indian and take his land, charges that the Bureau of Indian Affairs, or the Department of the Interior, or the Congress, or someone, was going to "free" the Indian by eradicating him.[35]

Mr. Abbott goes on to show that criticism has always been the lot for any and every Indian policy decision and was, therefore, to be expected because of this "revolutionary, if long overdue Indian legislation." He continued:

> It is of interest to relate a pre-Public Law 280 statement from one source, some post-Public Law 280 reaction from two others.
>
> In 1952, at the annual meeting of the Governors' Interstate Indian Council meeting, one of the governors of a major Indian state, in one of the keynote addresses said this:
>
> ". . . The bigger the unit of government, the more bureaucratic it becomes. The smaller the unit of government, the more democratic it is and the closer it is to the

wishes of the people. This is one of the explanations for the demand among people of Indian blood for more rights in the administration of their own affairs and for their further demand for bringing many of the activities of the Federal Government down to the state and local level."

Now hear the outgoing chairman of the National Congress of American Indians, one of the national organizations dedicated to Indian interests in 1953:

> "Jurisdiction over American Indians has remained for the most part, vested in Congress . . . for a century and a half. Laws passed by the Congress relating to an Indian tribe under Federal jurisdiction have been administered by the Bureau of Indian Affairs . . . . Inroads are now being made to end the historic Indian relationship and turn Indian affairs over to the States."

Joining in was another national organization, the Association of American Indian Affairs, condemning--with its sister group--what both labelled most critically ". . . this first major move toward 'States rights' for Indian tribes."

There, and just so, in 1953 were the lines drawn. Old echoes directed at a new and additional advance--Congress believed--in making outdated the Supreme Court's description 67 years earlier of Indian tribes ". . . owing no allegiance to the States and receiving from them no protection."

I will not dwell on the means employed by opponents of Public Law 280 to beat the tom-toms of fear on every reservation across the Nation; I will say that much of the material spewed out was downright untruthful and misleading--such as the assertion (absolutely contrary to the clear provisions of the Act) that hunting and fishing rights secured by treaty were destroyed by the Act. I will say only that six years--with the usual and to-be-expected procedural problems arising and disposed of--have more than vindicated action of the Congress, the States supporting the legislation, and the friends inside and outside government, of its provisions.[36]

Although the annual report for 1960 states that "no new legislation was enacted by any state pursuant to Public Law

280,"[37] some was enacted in 1961. The situation was ripening for it in Washington, where attempts to secure jurisdiction short of legislation were repulsed. The development in Washington is reported as follows:

> The jurisdiction of State courts over criminal acts by Indians within reservations was further narrowed during the year by several decisions by the Washington State Supreme Court. These cases involved offenses committed by Indians within such organized cities as Topenish and Wapato. No trust Indian land was involved, but the cities are located within the boundaries of Indian reservations. In two of these cases, the State Supreme Court observed, significantly, that "We are aware of the difficulty our conclusions cause in the field of law enforcement . . . and of the related problems they raise . . . but the solution in this State lies in corrective legislation . . . not in unauthorized assumption of jurisdiction by our State Court." It seems apparent that the State Supreme Court believes that the jurisdictional questions in Washington can be resolved by appropriate legislation pursuant to Public Law 280, 83d Congress.[38]

The annual report also noted the rise of juvenile delinquency. Perhaps this development arrested the attention from the strictly jurisdictional problems. Programs to prevent such delinquency were reported on several reservations. In fact, the rise of juvenile problems in one area resulted in the Senate Appropriations Committee directing the Bureau of Indian Affairs to make a survey of the problem in the Pacific Northwest to determine the magnitude of the problem and the steps required to solve it.[39]

It becomes apparent that there is a shift in emphasis away from immediate termination during the end of this period. Instead of the push toward the ending of wardship, Congress and the Department of Interior, and thus the Bureau of Indian Affairs, seemed more concerned about the necessary preparation which must precede termination. The Secretary of the Interior in a public address in Washington, D. C., on March 31, 1960, declared his feelings of what the preparation should consist:

> I am absolutely convinced that it is an important part of our job to do our best to help every Indian prepare to meet the challenge of living off the reservation, if he

> decides to leave.
>
> Let me assure you that we have no thought whatever of trying to force Indian people off the reservations, or even of subtly persuading them to move against their will. That would be cruel and inhumane, and foredoomed to failure. I will have no part of it. Nor will I be a party to insisting that they remain on the reservation, no matter what.
>
> Experience teaches us that a very large percentage of the younger people are voluntarily seeking to make their livelihood away from the reservations. Therefore, it seems clear we must continue--as one of our primary goals in working with younger Indians--to provide them with an opportunity for a sound education. Education for every Indian child is now the keystone of our policies. It must be so in the future.[40]

Secretary Seaton goes on to mention other programs which aim at improving the situation of American Indians, and then concludes:

> All these varied activities are aimed at one overriding objective.
>
> Simply stated, that objective is to provide our Indian citizens with adequate opportunities for personal development and growth so they can ultimately take whatever place they choose in the larger fabric of our national life. It is not to try to mold Indian people into some abstract image of what we think they ought to be. Neither is it to terminate special Federal protection and services for any tribe or group of Indians until they themselves are ready, prepared, and willing to take on the full responsibilities for managing their own affairs.
>
> Encouraging as our progress has been of late years, I must warn that much more must be done before we can completely bridge the gap still separating so many Indian people from full participation in the benefits of modern America.[41]

Tribal programs tailored to the needs of individual groups continued to be implemented. Bigger-than-ever school construction programs were emphasized. Emphasis to the upgrading of libraries and to the developing of students' habits and skills in library use is mentioned in the annual report for 1961.[42] Improved curriculum guides and additional teaching materials were put into use, and superior teaching and techniques for achieving it were also mentioned.[43] Because of accelerated efforts, some areas were able to report a notable increase by Indians in the use of the English language.

In all probability the one item of greatest long-range importance to the Indians was a program of vocational training for any adult Indian who lived on or near a reservation, enacted as Public Law 959 in 1956. Specifically, it was designed to improve the job skills of Indian workers and thus enhance their earning power. The law authorized training periods up to 24 months and was primarily aimed at the age group between 18 and 35. It also authorized the Secretary of the Interior to contract with state and local agencies for the training and provided the trainees with necessary transportation and subsistence.

Another significant enactment was Public Law 767 which extended the life of the Indian Claims Commission until April 10, 1962. Under previous legislation, the commission would have been terminated five years earlier--in the spring of 1957. It was felt that all claims against the government must be processed before Indian groups could be accurately evaluated for termination.

Other changes brought about by legislation were focused toward making the Indian self-sustaining. Since land was still the Indians' most valuable commodity, the period saw important changes in policy regarding it. Public Law 450 made it easier for Indian landowners to obtain loans from commercial sources by permitting them to execute, with the approval of the Secretary of the Interior, mortgages or deeds of trust to allotted lands in trust or restricted status.

Generally under previous laws Indian lands could be leased for periods no longer than five years for some purposes and ten years for others. Exceptions have been made for certain tribes, but these were very few in number. The absence of authority to grant long-term leases discriminated against Indians who owned restricted lands that were suitable for the location of business establishments, residential subdivisions, summer homes, airports, or for other purposes that required a substantial outlay of capital by the prospective lessee. It also penalized Indian landowners of raw but potentially valuable farmlands on which the cost of subjugation was too great for the Indian himself to bear. In such cases prospective lessees were willing to undertake these expensive improvements only if guaranteed tenure by a long-term lease.

Another new law authorized trust or restricted Indian lands to be leased for specific purposes by the Indian owners, with the approval of the Secretary of the Interior, for a period of not more than 25 years (ten years in the case of grazing leases) with an option to renew (except in the case of farming and grazing) for not more than one additional term of twenty-five years. Long-term leases for farming purposes were permitted only if the lessee is required to make a substantial investment in the improvement of the land for the production of specialized crops.

With the actual realization of termination for two large Indian groups as well as numerous small groups, and termination policy spelled out for many other tribes and groups, the will of Congress was finally firmly expressed. The reaction to the outright termination had become so vociferous that Congress apparently decided to take a second look at its policy. At the same time Congress must have been a bit content at having finally made the plunge into termination--yet wary lest great mistakes be made because of too great a haste for further termination. Emphasis was now placed on the improvement of the conditions for Indians in every possible way as a preparation for termination for, as one authority said:

> . . . [S]ince we have deprived the Indians of the excellent opportunity for life, liberty, and the pursuit of happiness that they enjoyed before the Europeans came, we cannot, as Americans, rest content until we have restored that opportunity to them at least to the degree that other citizens have it.[44]

The pace of Congress was slowing down at too early a termination for Indian groups until the results of earlier termination was in or until the Indians were adequately prepared.

FOOTNOTES

VII

[1] Glenn L. Emmons. "The Job Ahead in Indian Administration." Address given before a seminar at the Intertribal Ceremonial, Gallup, New Mexico, August 13, 1954.

[2] Glenn L. Emmons. Address given before the Governors' Interstate Indian Council, Sheridan, Wyoming, August 6, 1956.

[3] Emmons. "The Job Ahead." *op. cit.*

[4] *Ibid.*

[5] Emmons. Address before the Governors' Interstate Indian Council, *op. cit.*

[6] Glenn L. Emmons. Address at the Triennial Conference of the National Fellowship of Indian Workers, Estes Park, Colorado, July 3, 1958.

[7] *Ibid.*

[8] Fred A. Seaton. Address given at the Arrow, Incorporated, luncheon, Blue Room, Shoreham Hotel, Washington, D. C., March 31, 1960.

[9] *Ibid.*

[10] Hon. Wesley A. D'Ewart. *Congressional Record*. Vol. XCIX, Part 7 (83d Congress, 1st Session), p. 9262.

[11] Hon. William H. Harrison. *Ibid.*, p. 9263

[12] *Annual Report*. Secretary of the Interior (Washington, D. C., Government Printing Office), 1954, p. 228.

[13] *The Washington Post*. April 12, 1954.

[14] Harold E. Fey. "Our National Indian Policy." *The Christian Century*. Vol. LXXII, No. 13 (March 30, 1955), p. 395.

[15] Mrs. Emms Kolina. *Congressional Record.* Vol. C (83d Congress, 2nd Session). Extension of remarks of Hon. James E.

Murray of Montana, July 9, 1954, printed in the Appendix, pp. A4958-59.

[16] R. V. Bottomly. "We Must Assist Our Indian Brothers to Help Themselves: Bottomly." The People's Voice. Helena, Montana, April 6, 1956. Reprinted speech given before the National Congress of American Indians in Spokane, Washington.

[17] Hon. Barry Goldwater. Congressional Record. Vol. CV, Part 3 (86th Congress, 1st Session), p. 3587.

[18] Ibid., p. 3588.

[19] Fey. op. cit.

[20] Glenn L. Emmons. Address given before the Annual Convention of the National Congress of American Indians, Omaha, Nebraska, November 19, 1954.

[21] Glenn L. Emmons. "The American Indian--Yesterday, Today, and Tomorrow." Address given at the Triennial Conference of the National Fellowship of Indian Workers, Estes Park, Colorado, July 11, 1955.

[22] Emmons. Address delivered before the Annual Convention of the National Congress of American Indians. op. cit.

[23] Glenn L. Emmons. "Why We Still Have an 'Indian Problem.' " Sunday Telegram (Worcester, Massachusetts). Guest editorial of January 12, 1958.

[24] Annual Report. op. cit., 1954, pp. 231-32.

[25] Ibid., 1955, pp. 231-32.

[26] Ibid., 1957, p. 239.

[27] Fred A Seaton. Remarks broadcast September 18, 1958, over Radio Station KCLS, Flagstaff, Arizona.

[28] Annual Report. op. cit., 1961, p. 280.

[29] Ibid., p. 281.

[30] Fey. op. cit.

[31] Annual Report. op. cit., 1954, p. 227.

[32] Ibid., pp. 342-44.

[33] "Consultation or Consent?" *The Christian Century.* Vol. LXXIII, No. 4 (January 25, 1956).

[34] Douglas McKay. Letter to Oliver La Farge, president of the Association on American Indian Affairs, Inc., dated November 30, 1955.

[35] George W. Abbott. Address prepared for delivery before the Committee on Indian Law of the Federal Bar Association, Hotel Statler, Washington, D. C., September 26, 1959.

[36] *Ibid.*

[37] *Annual Report. op. cit.*, 1960, p. 204.

[38] *Ibid.*, p. 205.

[39] *Ibid.*

[40] Seaton. Address given at the Arrow, Incorporated, luncheon. *op. cit.*

[41] *Ibid.*

[42] *Annual Report. op. cit.*, 1961, p. 287.

[43] *Ibid.*

[44] Oliver La Farge. "Termination of Federal Supervision: Disintegration and the American Indians." *The Annuals of the American Academy of Political and Social Science.* Vol. CCCXI (May, 1957), p. 41.

VIII. THE 1961 TASK FORCE REPORT: SOMETHING OLD AND SOMETHING NEW

A. Background

The lull in the Bureau of Indian Affairs' directive policy left by the de-emphasis on outright termination was broken early in the 1962 fiscal year when a 77-page report was submitted by the Secretary of the Interior's Task Force on Indian Affairs. The main objective of "equal citizenship rights and benefits, maximum self-sufficiency and full participation in American life" which characterizes the report, together with the major recommendations presented, were fully endorsed by the Secretary of the Interior.[1]

To move toward the attainment of these goals the task force report recommended less emphasis on the purely custodial functions of the Bureau, while giving emphasis to greater concentration of time, energy, and funds toward fostering fuller development of both the human and natural resources on Indian reservations.

For the first time since 1938 all of the Bureau's superintendents met together in a meeting held in Denver. Even greater momentum was given the findings of the report when Philleo Nash and James E. Officer, both of whom served on the task force itself, joined the Bureau as commissioner and associate commissioner of Indian affairs in September. The October meeting was largely focused on the report and the steps necessary for implementing its major recommendations.

As the first step the Bureau was reorganized for economic development:

> . . . [U]nder the plans that were finally worked out, all the resource functions of the Bureau (agricultural assistance, forestry, real estate appraisals, real property management, road construction and maintenance) were brought into closer relationship with the industrial development work and the revolving credit program within the structure of a new Division of Economic Development. In the Washington office the new Division also included a program planning staff and a specialist in housing.
>
> In addition, a new position of Economic Adviser to the Commissioner (to work closely with but outside of the new

Division) was created and filled during the year and plans were formulated for recruiting in fiscal year 1963 a substantial number of economic development specialists with training in the social sciences for the staffs of agencies area offices, and the Washington headquarters.[2]

Perhaps the most important single recommendation was a shift in policy because, as the report stated,

> The experience of the past few years demonstrates that placing greater emphasis on termination than on development impairs Indian morale and produces a hostile or apathetic response which greatly limits the effectiveness of the Federal Indian program. The Task Force believes it is wiser to assist the Indians to advance socially, economically and politically to the point where special services to this group of Americans are no longer justified. Then, termination can be achieved with maximum benefit for all concerned. Furthermore, if development, rather than termination, is emphasized during the transitional period, Indian cooperation--an essential ingredient of a successful program--can be expected.[3]

In a concluding statement, probably the most significant paragraph, the task force report summarized the basic policy upon which all Bureau programs were focused: eventual termination. The report stated that

> . . . in the foreseeable future, the proper role of the Federal government is to help Indians find their way along a new trail--one which leads to equal citizenship, maximum self-sufficiency, and full participation in American life. . . ,[4]

but that the road to this "new trail," or the policy the government would use to discharge this role, would be to

> . . . make available to Indians a greater range of alternatives which are compatible with the American system, and where necessary, to assist Indians with choosing from these alternatives. As a part of this responsibility, it must mobilize and direct the vast reservoir of good will toward Indians which is found throughout the country. Finally, since many of the problems relating to Indian development are local problems, it must use its influence to persuade local governments, as well as those who live near Indian reservations, to recognize their stake in the Indian future and to work with the Indians and with the Federal Government in preparing the new

trail.[5]

B. Development, Relocation, and Placement Programs

Specifically the task force named some of the means which it felt would provide the wider range of alternatives. First among these was improvement in employment opportunities whereby Indians could provide themselves with the necessities of life instead of receiving them wholesale from the government by direct relief. By providing capital and technical assistance, maximum development of the resources of Indian reservations would be sought. Much of the above is a restatement of policy talked of earlier during the post-war period but seldom really implemented. For example, in a circular letter written by Assistant Commissioner John H. Provinse in April of 1948, we read that during the congressional hearings being held

> . . . much of the discussion related to the matter of placing Indians in employment so that they might be removed from the relief rolls. Particularly because of the small amount of relief money available and the low grants given, we have every reason to believe that you are aware of the importance and necessity for this type of service and action and will take advantage of every opportunity through the cooperation of Federal, State, and other employment offices to place Indians in employment, both on and off the reservation. We realize that weather conditions and housing are important factors and that not all Indians on relief are employables. Nevertheless, everything possible must be done to assist Indians in obtaining work.[6]

A placement program for which appropriations were given in 1949 was started with the Navajo and Hopi tribes in 1948 and extended to include other areas in 1950 and 1951 because of the conclusion that most Indian reservations were "insufficient in quantity or quality to support the present population." Actually the program could well be called the relocation program by which name it was later to be called.

> The objectives of the Bureau placement program are to make known to Indians the opportunities existing for permanent off-reservation work and living, to assist those who are interested in improving their lot to plan for and successfully carry out their movement to places of greater opportunity, to insure their acceptance in employment, and to facilitate their social adjustment in communities to which they may go.[7]

From an address by the Commissioner of Indian Affairs, Mr. Philleo Nash, we have an up-to-date evaluation of the course the program has taken in the past and possible avenues of emphasis supported by the task force report:

> Relocation for direct employment . . . is, of course, a wholly voluntary operation--a service that is made available to Indians who have decided on their own initiative to leave the reservations and re-establish themselves in urban communities where jobs are more abundant. The Bureau operation is designed to help them in just about every conceivable way in making this transition. At the departure end, on the reservations, we have staffs of trained personnel who counsel with the Indians contemplating a move and give them firm, realistic advice on the kinds of difficulties they may expect to encounter; in many cases, these interviews have resulted in a decision not to relocate. But where the decision is affirmative, the Bureau provides transportation and subsistence not only for the job seeker but for all his immediate family dependents. On the receiving end we maintain offices in eight middle western and far western cities staffed with personnel who specialize in job placement, the location of suitable housing, and all the many other phases of adjustment to the urban environment that are inevitably involved. The transition is, of course, an almost traumatic one for many Indian people and involves a wide variety of services and assistance sometimes over a period of many months.[8]

An interesting extension of the relocation problem was the result obtained in fiscal year 1963. When speaking of the relocation of Indians for direct employment, as opposed to temporary relocation for purposes of vocational training, the annual report indicated a slight decrease:

> The total family units or unattached individuals assisted in this way was 1,696, compared with 1,866 for 1962; the total number of individuals involved was 3,318, compared with 3,494.

The reasons given reflected the greater emphasis placed on vocational training:

> The decrease reflected BIA's greater emphasis on vocational training as preparation for the steadier and better paying types of employment.[10]

Other types of relocation which involved no great movement to large urban centers were also commented on:

> Apart from the relocation to urban centers, the Bureau helped an additional 2,056 family heads or unattached individuals find jobs, temporary or permanent, on or near reservations. Many had qualified for this employment through on-the-job training in industrial plants recently established in reservation areas.
>
> Availability of increasing numbers of Indians with job skills has made it possible to assist more and more Indians to obtain adequate employment near the reservations and in urban centers. Employers representing many fields are becoming favorably aware of the productive ability of Indian workers, both men and women.[11]

This last statement is particularly interesting since it shows that greater emphasis was placed on training the Indian than terminating his relationship with the government. Definite results are being obtained. Perhaps this very fact will have the double effect of raising the morale of Indians and proving the evaluation of the task force report.

C. Vocational Training

Another aspect of what is called employment assistance, occupational training, is commented on at length by Mr. Nash in his December 6, 1962, address:

> In 1956 Congress enacted a statute, designated as Public Law 959, which enabled us to broaden the scope of our employment assistance work along lines which have already proved highly beneficial. This law authorized us to provide Indians, principally between the ages of 18 and 35, with three kinds of occupational training. One is vocational training in regularly established schools which equips the trainee with a skill which he or she can use in a wide variety of job situations. The second is on-the-job training which involves orientation of the trainee to the requirements of a particular job in a particular plant. And the third is training for apprentices.
>
> The program came along at just about the right time since one of our major difficulties under the earlier operation was that we were relocating a large number of wholly

unskilled workers who presented an increasingly challenging problem of placement. Today we are placing the unskilled workers in schools both in the States where the reservations are located and in the cities where we maintain our urban offices. We are providing on-the-job training for others in plants situated on or near the reservations. And we have recently started to move actively on an apprentice training program.

Through this operation we are turning out skilled machinists, welders, barbers, beauticians, and people trained in just about every other occupation you can think of that does not require the achievement of a college or university degree. The program has been tremendously popular with the Indians and one of our major problems has been to keep abreast of the constantly growing number of applicants. Fortunately the program has also won widespread Congressional approval and just last year Congress increased the authorization for annual appropriations to finance this program from $3.5 million to $7.5 million. During the present fiscal year we have nearly $5.5 million available for training activities and this enables us to keep about 1,400 Indians, as a general average, in training status. The average cost per trainee is about $250 per month.

Admittedly, this is a rather expensive operation since it includes not just the costs of tuition but also the living expenses for the trainee plus family dependents, if any, during the course of instruction. But there is no doubt in my mind that the benefits amply justify the expense. Acquisition of a salable skill makes an almost night-and-day difference in the economic prospects of the individual Indian. It greatly enhances his chances of being hired, boosts his earning capacity, provides him with additional job security, and broadens his chances for steady advancement.

In addition to the training made possible by our funds in the Bureau of Indian Affairs, Indians are also benefiting nowadays from training grants made by the Area Redevelopment Administration of the Department of Commerce and this promises to be a resource of continuing importance in the future. Furthermore, a third resource for training of Indians is now shaping up in the United States Department of Labor under provisions of the Manpower Development

> Training Act enacted by Congress earlier this year. So the outlook for moving substantial numbers of Indians out of the unskilled category and giving them new status as skilled workers is today much more promising than it was as recently as 1960.[12]

Concerning adult vocational training, fiscal year 1963 was a peak year:

> During the year, 2,911 trainees were enrolled in vocational schools across the country under the Bureau's program. This was 549 more than the 1962 total, or an increase of more than 20 per cent. . . When family dependents are included, 5,047 persons benefited from the 1963 operation.
>
> In addition, 675 Indians took part in 19 training programs of the Area Redevelopment Administration in Indian communities of 5 States, and an undetermined number of others participated in ARA training programs in non-Indian communities. Eighteen different occupations were involved in the 19 ARA Indian-community projects. An outstanding example of cooperation between BIA and ARA was the movement of 35 Indians from Arizona and New Mexico reservations to Los Angeles, where they completed a basic electronics course and then moved directly into jobs.[13]

D. Industrial Development

Another closely related field is that of industrial development, designed to help tribal organizations to attract new manufacturing plants on Indian reservations or close to them. The competition for industry is naturally keen from all sections, and many reservations are located in industrially unattractive sections. This program was initiated as an attempt to help alleviate the seasonal employment available to many Indians which must be supplemented by relief checks in periods of nonemployment. In outlining the program the Bureau of Indian Affairs adheres to Commissioner Nash's outlined three tools:

> . . . In the first place, something is gained, I believe, simply by having a staff of industrial development specialists--even though it is a small one--who are constantly in touch with industrial managers, picking up information about plans for establishing new plants, spreading the word about available sites in the Indian country and the advantages that can be

> offered; we now have such personnel stationed in Los Angeles and Chicago as well as in our national headquarters at Washington, D. C. Secondly, we are in position to help industrial companies meet some of the "start-up" costs involved in establishing new plants close to Indian population centers by reimbursing them for on-the-job training provided to Indian workers; this is made possible by authority of the adult vocation training act. And finally we can provide some loans to tribal organizations for use in building or equipping plants as an additional inducement to the manufacturing companies.
>
> Today we have a total of 26 plants operating in predominately Indian localities, including eight that have been established in the calendar year 1962. Altogether these plants are providing jobs for some 1,300 Indian workers and the prospects are that they will eventually hire about twice this number. . . . On several reservations the industrial payrolls have already helped perceptibly to brighten the local economic and social atmosphere. And I am optimistic that further important alleviations of chronic Indian poverty can be made through this avenue of approach.[14]

Congress enacted the Redevelopment Act which made fifty-six reservations in continental America and our areas in Alaska eligible for special aid in a program to assist in economic development. This was particularly important since two-thirds of the total Indian population would qualify under it.

> Some 50 Indian tribes have applied for ARA grants for studies of economic development possibilities, and in fiscal year 1962 a total of 19 research contracts were let, involving a commitment of $720,000, with particular emphasis on the development of new recreational and tourist attractions. Included in the ARA studies now underway is a project to determine improved methods for expanding the Alaskan native arts and crafts market.[15]

In the fiscal year of 1963, 26 new studies were undertaken to explore the feasibility of various types of economic enterprises. The particular possibility of developing tourist attractions on Indian reservations was studied and some recommendations made:

> The more important Indian areas being surveyed for such potentialities included the Pyramid Lake Reservation in Nevada, the Warm Springs Reservation in New York State,

> the Big Bend Redevelopment Area embracing the Crow Creek and Lower Burle Reservation in South Dakota, the Hopi Reservation in Arizona, the New Perce Reservation in Idaho, and the right-of-way along the newly completed Routes 1 and 3 on the Navajo Reservation in Arizona and New Mexico.[16]

But tourism was not the only potentiality explored:

> Other major types of studies focused in the possibilities of food processing (on the Quinault Reservation in Washington and the Kotzebue area of Alaska) and on the commercial utilization of forest products (on the Blackfeet and Rocky Boys Reservations in Montana, the Wind River Reservation in Wyoming and the Navajo Reservation of the Southwest.[17]

E. Loans and Credit

An adequate system of financing is basic to any devised program for economic development of Indians. Since Indians were granted citizenship some attempts at public financing have been attempted. Only in relatively recent years have banks and other financing associations which serve the American public generally begun to regard the well-being of the whole area as important. Instead of looking upon our native population as potentially unimportant, financiers have begun to see that Indian resources are only undeveloped and under-utilized and that they present abundant opportunity for sound investment and profit. The problem of security, however, has haunted a smoother transition to public financing. In explaining that the participation of public loan institutions has increased from $20 million to over $75 million, the annual report for 1962 says:

> One factor which has undoubtedly helped to account for this increase has been action by certain tribal groups such as the Shoshone of Wyoming and the Mescalero Apaches of New Mexico in entering into guaranty agreements covering bank loans made to tribal members who qualify in every way except for adequate security. Along the same line, the Blackfeet Tribe of Montana has posted a $50,000 guaranty fund which enables a local production credit association to make loans to tribal members who could not qualify under its customary procedures. The association had nearly $110,000 outstanding in loans under this agreement at the end of the fiscal year.[18]

Embracing the principle that it will give aid to those who are unable to secure it in any other way, the Bureau of Indian Affairs operates two main funds. Eligibility to receive a loan by the United States is not granted if a tribe has available funds of its own. Over $26 million had been loaned through this means alone by the close of the 1962 fiscal year.[19]

The other phase of the financing picture is the revolving credit program, first authorized in the Indian Reorganization Act of 1934, with a total appropriation of $10 million. Since that time under the administration of the Bureau significant and durable economic benefits have accrued from the financing of tribal and individual enterprises. The 1961 appropriation totaled about $31 million, and yet according to the Nash speech the "backlog of tribal requests and applications for loans . . . is both voluminous and impressive."[20] Commenting on the revolving credit program in fiscal 1963, the Bureau reports that

> A total of $27 million has been authorized by Congress for the BIA credit program. Of this, about $23.7 million has been appropriated. Because of the revolving nature of the fund, however, loans totaling more than $48 million have been made over the history of the program since the 1930's. Of this $30.5 million has been repaid and $236,000 has been canceled. Over the years prior to 1961, the average amount of new advances made from the fund per year was about $1.5 million; by contrast, the total for fiscal 1963 was nearly four times as great, or roughly $5.8 million. Of this, about $2 million was advanced to tribal organizations for relending to individual members; about $3.5 million was for financing of tribally owned enterprises, such as sawmills, livestock herds, pasture improvements, and the operation of salmon canneries in Alaska; and $350,000 was for attracting industries to establish plants on or near reservations.[21]

An interesting comment also made here is that "for several years the most important source has been the banks and other lending institutions serving the public," that the "second source of Indian financing is tribal funds," and that the "revolving credit program" provides financing to Indian tribes and individual Indians in cases where loans from other sources cannot be obtained or are insufficient to meet needs.[22] The manner in which these credit sources are listed at least indicates the basic philosophy of letting public institutions and the Indians themselves provide the credit, sources equally available to non-Indians as well, and using the BIA-provided financing when these failed. Commissioner Nash points out another phase of the situation:

> Yet the availability of credit funds is only part of the story of expanding tribal economic development. Another important part is the resources of managerial skill available within the tribal group. In some tribal areas, of course, the potentialities for economic development are wholly obvious and need only the infusion of finance capital to set the machinery in motion. More often, however, these potentialities are obscure or marginal or speculative and have to be carefully examined by people with special skills in this type of analysis before you can be fully sure of your ground. In the first half of this year a total of 19 surveys and studies were initiated by our Government to explore the feasibility of specific economic development enterprises on Indian reservations and in Alaskan communities. These studies are being made under contract by private organizations well experienced in this sort of work through the use of funds supplied by the Area Redevelopment Administration of the Department of Commerce. As I indicated earlier, the ARA has also been helpful in connection with the training of Indian workers and will undoubtedly be making still further assistance available to Indian tribes in the form of loans and grants for broad economic development programs.[23]

F. Education

Concerning education the task force made the sweeping statement that every program of the Indian Bureau should be oriented around the instructional function. "When programs of the Bureau have failed," it went on to say, "it has often been because Indians were not trained to assume the responsibilities thrust upon them."[24]

As the task force saw it, one of the major problems in education was the median educational level of the average Indian. Even though great strides have been made, the formal education level of Indians 25 years of age and over is "roughly one-half that of the general non-Indian population."[25]

Commissioner Nash, commenting on the war against poverty said that

> Education is essential to the success of all other Bureau

> programs. It is our biggest single activity, both in terms of manpower and of money. Over fifty per cent of our budget goes for the education of children and adults, and for school construction. We operate an education system of elementary, high school, and vocational schools for 47,500 Indian children and youth in schools and dormitories located in 17 States, primarily west of the Mississippi. This is only a part of the Indian school-age population. More than 90,000 are enrolled in public schools.
>
> Our goal in Bureau-operated schools is to bridge the cultural gap between Indians and non-Indians. Our major effort in recent years has been to expand the system and remedy past neglect. We are providing classrooms and dormitories for the rapidly increasing Indian population. We are upgrading the quality of instruction. We have been emphasizing school construction and the rehabilitation of existing school buildings to overcome a long-standing shortage of classrooms. The Congress has been generous with funds for this purpose. During the past two years we have been able to add nearly 7,000 classroom seats and related dormitory facilities to our school system.[26]

Improved education is essential for accomplishing the more comprehensive BIA goals of maximum Indian economic self-sufficiency, full participation of Indians in American life, and equal citizenship privileges and responsibilities for Indians.

The result of the report is that school construction on reservations has been greatly accelerated with the "provision of facilities for all Indian children needing opportunities scheduled for fiscal year 1965."[27] It has also been estimated that more than four-fifths of the Indian students enrolled in BIA schools are from homes where an Indian language is regularly spoken. According to the annual report for 1963 development of facility in speaking and understanding English is now one of the BIA's primary tasks, aimed at equipping Indians to assume their full responsibilities as American citizens.[28]

Another suggestion made by the task force was the utilization of school buildings the year round instead of on a nine-month basis. Such action would permit the Bureau to minimize the cost of school facilities for the expanding Indian school-age population by utilizing equipment already available. In areas where facilities are adequate, the school vacation period could be used to intensify the instruction given to those who are deficient. Besides providing supervised learning, the

Bureau was also admonished to provide organized recreational and educational activities to occupy Indian youth during their summer break. The annual report for 1963 mentions that the BIA continued its offering of special programs "designed to broaden the horizons of Indian students and contribute to their personal development."[29] The programs are developed in four major areas: "academic, student employment, organized sports and other leisure-time activities, and field trips."[30] If the percentage of increase (90) is any indication of the emphasis placed on the implementation of a Bureau policy, then the task force recommendation is being carried out as much as possible. There had been some concern at the rising juvenile delinquency rate, and this was an attempt to do something about it.

To facilitate the transfer of the Bureau's educational responsibilities, the task force suggested the organization of public school districts on the reservations. Then at the proper time the Bureau could withdraw its supervision in favor of the public school administration. If the district should have inadequate money to finance a sound educational program, the federal government should provide a subsidy. With this ultimate goal in mind the government was admonished to improve the physical plants in which many Indian children receive their instruction, to construct new school buildings where needed, and to improve roads so that children may be transported to school, thus eliminating the need for providing boarding facilities.

According to the information given in its yearly report, the Bureau in 1963 completed 38 building projects which involved over 5,000 classroom seats. About half of this number were replacements while the other half were additional facilities. Thirty-eight additional projects were underway to provide 6,000 additional seats and approximately 3,700 replacements. Thus, the policy of the BIA seems to provide adequate schooling facilities, both new and replaced, for all eligible school children by 1965 as stated above.

One other item of interest was the initiation of the Institute of American Indian Arts. The institute admits Indian students from all federally recognized tribes and is operated as a fully accredited senior high school with a special emphasis on the vocational implication of fine and applied arts.

In its comments on the arts and crafts the task force said it believed that

> . . . the promotion and development of arts and crafts

> must be an integral part of the educational program of the Bureau.
>
> . . . . . .
>
> Arts and crafts are important builders of Indian morale. Recognition by the general public of their artistic merit demonstrates to the craftsman that his workmanship is esteemed and that the art forms of the tribe or group deserve preservation in the modern world. Furthermore, these items help to promote understanding of traditional Indian ways. As expressions of Indian thought and emotions, they tell non-Indians what kind of people Indians are.[31]

Further suggestions, if implemented, would permit the children of government employees to attend federal schools when operated on Indian reservations, and would encourage closer teacher-parent relationships with the idea of helping Indian parents to become more familiar with the educational system and learn of their rights and duties as parents.

G. Health

The Commissioner of Indian Affairs, Philleo Nash, in a speech given in February, 1964, related the problems of health as he saw them:

> Indian health conditions are far below those of the general population. At birth, Indians have a life expectancy of 62 years, but the poor health of the older Indian people brings the average age at death on the reservations down to 42 years. Infant mortality is high. Indian babies have little more than half the chance that non-Indian babies have of reaching their first birthday.[32]

The task force had earlier stated this sentiment in these words:

> Although there have been substantial improvements in Indian health since World War II, Indian death rates continue higher than the national average. The Indian life span is approximately two-thirds that of the general American population and infant mortality rates are about three times as high.[33]

Health services have been more effective since they were transferred to the Department of Health, Education, and Welfare. Several reasons might be given for this fact, but the larger appropriations of that department plus the availability of more medical specialists seem sufficient reasons. Still, the task force noted, there is need for a bi-department policy-setting group to coordinate objectives, programs and policies.

With the idea of eventually integrating the Indian into national public life, the task force recommended an increased appropriation to tackle the problems of lack of water and sewage disposal systems and the development of a training program to prepare Indian communities for assuming the responsibility of maintaining water and sewage disposal facilities once they are installed.

An Indian Sanitation Bill, S. 56, passed the House of Representatives on July 20, 1959, having been previously passed by the Senate. It authorized the appropriation of funds for the purpose of constructing proper water and sewage facilities on Indian reservations.

Carl Muschenheim, chairman of the National Committee on Indian Health, said that according to the information available to him the Indian health service was ready to start the sanitation program immediately and that it had enough projects planned to be able to utilize a $2 million appropriation during the fiscal year just begun.

The task force proposed that the Bureau and the Division of Indian Health should urge cities, counties, and states to accept their responsibilities for providing health services to Indians living off reservations as any other resident. Moreover, the task force stated that some payment for health services should be made by an Indian who could afford it.

H. Law and Order

Public Law 280 started the trend toward jurisdiction with respect to criminal and civil causes on states. Five states--California, Minnesota, Nebraska, Oregon, and Wisconsin--were given the initial jurisdiction, but Congress also granted permission to other states to assume jurisdiction at their option through amendments to state constitutions or enactments of appropriate statutes. On the same date Public Law 280 was passed Congress enacted

Public Law 83-277, which in effect permits local option pertaining to the sale of liquor on Indian reservations. Commenting on this law the task force report states that

> The problems generated by the enactment of Public Law 83-280 arise from areas of conflict between the doctrines of Federal law relating to Indians and those of the several States; from the absence of any requirement to obtain the Indians' consent; from inadequacies of both old and new measures for the protection of life and property in the Indian country; and from fears of the Indian people that the adoption of State civil and criminal jurisdiction is merely a step toward unilateral termination of Federal services. 34

As the report first stated, Indian morale was greatly affected whenever a particular Bureau policy, as all seem to, advocated termination. Public Law 280 was considered such a policy of termination, and thus caused anxiety among the natives. As a means of overcoming some of the problems raised above, the task force recommended

> That Public Law 83-280 be amended to provide for the transfer of jurisdiction to the States only on the basis of negotiated agreement between the Federal Government, the appropriate State governments, and the tribal governments affected. We feel this is an essential principle of the American way and a step which is necessary to remove Indian fears of unilateral termination. 35

Other recommendations would have the Bureau's branch of law and order develop programs in cooperation with tribe and state governments, which would possibly revise tribal codes and reorganize tribal courts along the lines of civil and criminal codes of the states concerned; they would have the tri-body council initiate transfers of jurisdiction when such immediate transfer would be beneficial; and they would have the Secretary of the Interior insist that the courts of Indian offenses guarantee civil rights in an attempt to correct the abuses which exist.

In light of these offenses it is interesting to note that in the 1963 annual report there is no mention of this problem area at all. The suggestions hold some merit which largely center around the "consent" versus "consultation" argument.

In a speech by Interior Secretary Seaton in 1958 a review of termination proceedings was made. House Concurrent

Resolution 108 stated that it was the intent of Congress to end the special wardship status of the American Indian tribes "as rapidly as possible." Some additional provisions were specifically applicable to specific tribes in their corresponding states. This proposal had wide coverage in the public news mediums and was heralded by some and condemned by others. The Secretary of the Interior made it clear by stating his own position:

> [N]o Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated--first, that it understands the plan under which such a program would go forward, and second, that the tribe or group affected concurs in and supports the plan proposed.[36]

This explanation clarifies the government's position, but what exactly does the word "concur" mean? In a speech before the National Congress of American Indians prepared by Commissioner Emmons, we read that the termination legislation affecting the Menominees

> . . . which was enacted into law last June [1953] was the end product of discussions and consultations held with these Indians by Bureau representatives and by key congressional members over a period of many months. In fact, the general principle of a termination program for the Menominees was approved in a tribal resolution adopted as far back as June, 1953.[37]

In another address Commissioner Emmons clarifies the consultation idea:

> To me the term does not mean going out to meet the Indians with preconceived plans or cut-and-dried solutions for their problems all wrapped up in advance. It does not mean merely advising the Indians of what we intend to do and then going right ahead with it regardless of any objections they may have or any views they may express. It does not mean being in too much of a hurry to really listen or being too self-righteous to really understand.
>
> In my definition full consultation has several important, and actually essential, characteristics. First, it involves making a sincere and warmly sympathetic effort to learn just what the Indian people have on their minds and in their hearts. Secondly, it means providing them with a complete and unhampered opportunity for an

> expression of their views. Thirdly, it means giving the fullest possible consideration within the limitations of law and policy, not to every individual Indian's opinion, but to the clear consensus and to those views which are obviously supported by a majority segment of the tribal population. Finally, in those cases where there are good and compelling reasons for not complying with the tribal requests or recommendations, it means explaining carefully and clearly just what those reasons are and why, from the Government standpoint, they seem to be important.[38]

Even President Eisenhower mentions that his administration ". . . has pledged itself to consult with the Indian people of this country and to give them every opportunity for a full expression of their desires, suggestions, hopes, and aspirations."[39] Yet in a declaration of Indian rights, Joseph R. Garry, President of the National Congress of American Indians makes the statement:

> We feel we must assert our rights to maintain ownership in our own way and to terminate it only by our consent.
>
> If the Federal Government will continue to deal with our tribal officials as it did with our ancestors on a basis of full equality; if it will deal with us as individuals as it does with other Americans, governing only by consent, we will be enabled to take our rightful place in our communities, to discharge our full responsibilities as citizens, and yet remain faithful to the Indian way of life.[40]

In another statement made by a Secretary of the Interior on the issue which determines our entire national policy concerning Indian-White relations we read:

> Now let me say a few words about the principle of Indian "consent." . . . We must start, I believe, with the fact . . . that Indians are citizens and now have the privilege of the ballot in all 48 states. This means that they are represented in Congress just as other citizens are and that they have the same rights (which they frequently exercise) of petitioning the Congress and of stating their views before congressional committees considering legislation. What you are proposing--and let us be quite clear about this--is that, over and above these normal rights of citizenship, the Indians should also have a special veto power over legislation which

> might affect them. No other element in our population (aside from the President himself) now has such a power and none ever has had in the history of our country. In short, it seems to me that the principle of Indian "consent" which you are arguing so strenuously has most serious constitutional implications. With full respect for the rights and needs of the Indian people, I believe it would be extremely dangerous to pick out any segment of the population and arm its members with authority to frustrate the will of the Congress which the people have elected.[41]

The Indian population evidently felt the government meant merely consultation and not necessarily consent. In their expressions before the task force, Indian delegations, or a majority of them, expressed their opinion that "civil and criminal jurisdiction should remain with the federal government," and that it should not have been transferred to the states except with the consent of the Indians concerned. The policy of Congress is commented on by George W. Abbott, the Solicitor of the United States in remarks given before the Committee on Indian Law of the Federal Bar Association on September 26, 1959:

> I will not dwell on the means employed by opponents of Public Law 280 to beat the tom-toms of fear on every reservation across the Nation; I will say that much of the material spewed out was downright untruthful and misleading--such as the assertion (absolutely contrary to the clear provisions of the Act) that hunting and fishing rights secured by treaty were destroyed by the Act. I will say only that six years--with the usual and to-be-expected procedural problems arising and disposed of--have more than vindicated action of the Congress, the States supporting the legislation, and the friends inside and outside government, of its provisions.[42]

Under the heading "The Message," Mr. Abbot continues, saying that:

> There will always be those around, apparently, who for their own purposes--or no doubt because they sincerely believe it is the way things should be done--will choose to emphasize the differences between Indian and non-Indian, rather than concentrating on the ever so more numerous similarities.

> Three things--the pickup truck, the radio, and the military service discharge button--have operated in the past two decades to melt Indian reservation walls, real or imagined. With the readier means of transportation, reservation economics have picked up, just as those on them have ventured more freely to points at ever-increasing distances from home base. The radio brought the outside in without the physical presence of those who made the sounds. The discharge button symbolized for the World War II and Korean War Indian veterans--by the tens of thousands--their proof they had been beyond the reservation boundaries. They had learned the world did not begin and end at the reservation boundary.
>
> It taught them that the reservation: is not, or should not be, a cage; that it is not, or should not be, a jail; that it is not, or should not be, a refuge from realism, or from exposure to an opportunity to test and match talents and abilities with those outside; finally, that the reservation is not, or should not be, a museum.[43]
>
> . . . . . .
>
> The States must assume leadership in much greater degree than is the case today; few of them have active, going organizations geared to joining in creating a forum to bring together Federal spokesmen for both the Congress and the Executive branch, State government, local government, and local non-Indian citizens--all with the local Indian citizen.[43]

Mr. William B. Benge, the chief of the BIA's branch of law and order, summed up the jurisdictional policy before the 1959 National Convention of the Federal Bar Association by saying that in the case of the states of Washington and Nevada

> . . . the wishes of the Indian people have been the governing factor in the acquisition of jurisdiction.
>
> When Public Law 280 became law a clamor arose because it authorized other States to acquire jurisdiction but did not require the consent of the Indian people. The President recommended that the law be amended to provide for consultation with the Indian people and final Federal approval before any other State acted to acquire jurisdiction. The law has not yet been so amended but

as indicated above the wishes of the Indian people have not been ignored by those States that have acted pursuant to Public Law 280.[44]

I. Heirship and Allotment of Land

A word or two of background concerning heirship and allotment of land would probably be most helpful in understanding governmental policy towards them. In an article from The Christian Century, we read:

> Thirty years ago the problems of fractionated heirship landholdings began to get serious attention. Fractionation came about through the efforts of administrators to keep inherited land in Indian ownership. For example, on the death of an original allottee it was generally the case that no one heir was able to buy up the interests of the other heirs, and so the land became undivided property of all the heirs. As second- and third-generation owners died, the picture became increasingly complex, with shareholders in a given piece of land sometimes numbering over 100.
>
> . . . . . .
>
> The Indian Reorganization act put a stop to allotment, and Secretary Ickes ruled against all but the most necessary land sales.
>
> . . . . . .
>
> In 1955 the commissioner of Indian affairs issued a memorandum stating that land held by an individual Indian could be "fee-patented" (freed from restrictions against sale or encumbrance) regardless of the detrimental effect of such a patent on his neighbors' land or on the Indian community of which he was a part.[45]

Great furor arose because of the rapid sale of Indian land. Oliver La Farge, before an annual membership meeting of the Association on American Indian Affairs, Inc., held on April 22, 1958, bitterly attacked the government Indian land policy because the Department of Interior would not halt the sale of land. He summarized the government's defense for the sales in his own words:

> These sales were requested by the owners, they were conducted only when the Department determined that they were in the best interests of the owners; to halt them was to deprive the owners of their freedom while to give the tribes preferential rights to buy up the tracts (that is, those that have any funds to buy with) might mean that some of the owners did not receive as good a price as they might otherwise. No matter what the effect of these sales upon the whole community, the individuals' rights are paramount.[46]

"Most of these 'supervised sales,' " he went on to state, "and many others are made reluctantly, unhappily, under the whip of dire poverty, cold, starvation."[47]

The end result, the real consequence of the policy, he called "the hoop snake argument":

> The more land is sold, the more nearly impossible it is to build a tolerable economy, hence the more people become desperately poor, so poor that they will sell their land in order to stay alive one more year. This is the hoop snake. It takes its tail in its mouth and rolls on and on, and if its runs into you, you discover that its sting is deadly.[48]

Shortly after this convention the Commissioner of Indian Affairs sent an air mail memorandum to all area directors which stated the Bureau's policy on sales of individual Indian lands. In reviewing he said that during the 30's and early 40's the department "strongly discouraged individual Indian landowners from selling their holdings and permitted such sales ordinarily only to other Indian individuals or to tribal groups."[49] Indian landholders who wished to convert the excess of land needed to live on into cash were frustrated, and prices were substantially below what non-Indians might have paid.

During the late 40's Indians developed the practice of going directly to Congress for individual legislation that gave them fee patents or unrestricted title to their lands. This was usually contrary to governmental recommendation. Nevertheless, there was a principle involved, and so the

> . . . policy which the Department and Bureau have been following over the past few years, and especially since 1955, is based on a full recognition of the individual

Indian property rights which are unquestionably involved.[50]

The government in effect gave these Indians a deed to the allotted land which, though under trust,was a valid property right equal to any other property right of any other American citizen.

As the result of intensive study on this aspect of the Indian problem, the commissioner announced the new policy. The first point was that if an Indian asked that his land be sold, and investigation showed the sale would be to his best long-range interests, a sale would be permitted. Secondly, the tribal organization would be notified and if not permitted to negotiate with the individual owner for a purchase by the tribe, it would ask to be permitted to meet the high bid, or competitively bid at auction for the property.

Concerning multiple ownership, the policy was about the same as stated above. A sale had to be requested by one owner and approved by or on behalf of all the others. Again the tribe would be given preference.

The memorandum stated that legislative proposals were being worked on to help tribes without financial resources for a substantial land purchase program. On June 5, 1959, the Interior Department recommended special federal loans for the purpose of helping Indians acquire land.

This new policy was in effect when the task force made its report. There were some changes to be made, and one of the more important was an attempt to solve the fractionated land holdings by various heirs. One recommendation proposed granted the Secretary of the Interior authority to transfer the beneficial interest in highly fractionated allotments from the heirs to the tribe, with the tribe making compensation to individual owners. If the fractionated lands were not wanted and needed, they would be open to competitive bidding with approval of the owners of a majority of the beneficial interests. The results of this policy recommendation are not in as yet, since no mention of heirship problems is found in the latest report.

J. Housing

As important as housing is to the average individual, no housing branch of the Bureau of Indian Affairs exists. The

Credit Branch has shown no loans for housing purposes. Often it has been impossible for returning veterans to get G.I. loans because they had unsatisfactory credit ratings or because they did not have a proper title to the land upon which they wished to build. As recommendations the task force proposed the Federal Housing Agency program of long-term, low-interest mortgages, lending and mortgage support which had recently been extended to encompass Indians. This program still has drawbacks when applied to Indian situations. Limited for the same reasons are the veterans' housing program and the Farmers Home Administration. These programs have failed to give the Indians the necessary help they need because of their restrictions. A public housing program received the most recommendation for rapid improvement in the Indian housing situation since employment on Indian reservations is high, and populations are growing at too great a rate to be provided for adequate housing under existing policies, and since dwellings would be completely replaced. The Bureau's line of action to accelerate improvement in the notoriously substandard housing has been directed toward opening up the reservations to the financial assistance available through federal housing agencies to nonreservations.

In a 1962 comprehensive memorandum exchanged between the BIA and the Federal Housing Administration, there are provisions which provide mortgage insurance on leasehold estates on Indian trust lands. If tribal groups are recognized as governmental entities and projects are located on tribal lands, the Public Housing Administration extends participation in the benefits of its low-rent housing program.

Another interesting program is the self-help housing program as explained below:

> Under programs of this type, technical assistance, a small amount of money, and leadership are provided groups of individuals who are able and willing to erect their own homes out of locally available materials. This approach has not often been used on Indian reservations, but the Task Force regards it as having great potential value.[51]

K. Indian Claims

By the time the task force report came out, Indian Claims Commission procedure had been evaluated. The initial period of the act had expired, and an extension had been passed by Congress. This aspect of the Indian problem, however, had not been written off once and forever. Everyone agreed that progress was slow. The task force report recommendations mentioned accelerations in the adjudication of cases pending before the Indian Claims Commission.

Senator Langer spoke on the delays in Indian claims when he urged extension of the Indian Claims Commission for only two years instead of five in order to earlier conclude and determine Indian claims:

> I said then, and still feel, that we should conclude these claims before these Indians die, and before their sons and daughters, or grandchildren, die. Something must be done to speed up the disposition of these claims.
>
> According to the Senate committee report, in almost 10 years, only about 102 of 852 claims have been disposed of by the Commission. At this rate it will take almost 70 years to conclude the claims. I hope the pace will be speeded up substantially.[52]

By 1958 the work and accomplishments of the Claims Commission were commented on as follows:

> The plain fact is that the Indian Claims Commission, in its tedious and difficult job of weeding out the good claims from the bad, has dismissed a great many more cases than it has satisfied with awards.
>
> Many cases have been withdrawn, and most cases in which awards have been made have been for amounts much, much smaller than claimed.
>
> Of the 131 cases completed before the Commission, by final action of award, dismissal or withdrawal, the total amount awarded to this date [April 16, 1958] is $34, 199, 912--of which more than half is subject to some offsets in varying amounts, not all yet determined.
>
> While more than $34 million is a lot of money--it is less than 4 percent of the total amount claimed in these cases, which amounted to more than $926 million.
>
> . . . [T]he evidence supports the view that this Commission is doing a good job in a very difficult and

> unprecedented mission, which was assigned to it by the Congress, and which has turned out to be a much bigger job than was anticipated.[53]

One of the latest pronouncements is given in an address by Philleo Nash in February, 1964:

> One of the great Indian assets is their claim against the United States for wrongs done them a century ago. Nearly 20 years ago the Congress recognized the need to settle these ancient disputes once and for all and passed the Claims Act and created the Indian Claims Commission. Actual settlement has been long and arduous, and both Government and Indians are dissatisfied with the slow progress. Only about 20 percent of the claims have been settled so far, but they are now being concluded somewhat faster. So far, nearly 95 million dollars has been awarded to the Indian claimants. The Bureau of Indian Affairs does not take part in the settlement of the dispute; but we do take part in the planning with the Indian tribes for wise and productive use of the money.[54]

L. Summary

The effect of the task force report has been to provide the direction Indian policy should take. Many of the policies recommended were those already used a few years before, but not emphasized as at present. Much yet remains to be done, but progress is being made.

FOOTNOTES

VIII

[1] Annual Report, Secretary of the Interior, Washington, D. C.: Government Printing Office, 1961, p. 277.

[2] *Ibid.*, 1962, p. 8.

[3] *Report to the Secretary of the Interior by the Task Force on Indian Affairs*, July 10, 1961, p. 6.

[4] *Ibid.*, p. 76.

[5] *Ibid.*

[6] Circular letter to all superintendents written by John H. Provinse on April 7, 1948.

[7] *Annual Report*, *op. cit.*, 1951, p. 375.

[8] "Indian Affairs Today," address by Philleo Nash, United States Commissioner of Indian Affairs, delivered under the auspices of the School of Graduate Studies, University of Toronto, Toronto, Ontario, December 6, 1962.

[9] *Annual Report*, *op. cit.*, 1963, pp. 24-5.

[10] *Ibid.*

[11] *Ibid.*

[12] "Indian Affairs Today," *op. cit.*

[13] *Annual Report*, *op. cit.*, 1963, pp. 23-4.

[14] "Indian Affairs Today," *op. cit.*

[15] *Annual Report*, *op. cit.*, 1962, pp. lx-lxiii.

[16] *Ibid.*, 1963, p. 29.

[17] *Ibid.*

[18] *Ibid.*, 1962, p. 19.

[19] *Ibid.*, 1963, p. 32.

[20] "Indian Affairs Today," *op. cit.*

[21] *Annual Report, op. cit.*, 1963, p. 33.

[22] *Ibid.*, p. 32.

[23] "Indian Affairs Today," *op. cit.*

[24] Task Force Report, *op. cit.*, p. 22.

[25] *Ibid.*

[26] "The War Against Poverty--The American Indians," address by Philleo Nash, Commissioner of Indian Affairs, Department of the Interior, delivered at the Abraham Lincoln Centre, Chicago, Illinois, on February 12, 1964.

[27] *Annual Report, op. cit.*, 1962, pp. lx-lxiii.

[28] *Ibid.*, 1963, p. 19.

[29] *Ibid.*, p. 18.

[30] *Ibid.*

[31] Task Force Report, *op. cit.*, p. 20.

[32] "The War Against Poverty," *op. cit.*

[33] Task Force Report, *op. cit.*, p. 40.

[34] *Ibid.*, p. 27.

[35] *Ibid.*, p. 31.

[36] *Congressional Record,* Proceedings and Debates of the 86th Congress, 1st Session, Vol. CV (March 2, 1959) p. 2784. Remarks by Secretary of the Interior Fred A. Seaton.

[37] Address by Commissioner of Indian Affairs Glenn L. Emmons before the Annual Convention of the National Congress of American Indians, Omaha, Nebraska, November 19, 1954.

[38] Address by Commissioner of Indian Affairs Glenn L. Emmons at the Triennial Conference of the National Fellowship

of Indian Workers, Estes Park, Colorado, July 11, 1955, entitled, "The American Indian--Yesterday, Today, and Tomorrow."

[39] Letter to Commissioner Emmons from President Eisenhower, Denver, September 2, 1953.

[40] Joseph R. Garry, "A Declaration of Indian Rights," published as an extension of remarks by the Honorable E. Y. Berry of South Dakota, March 11, 1954.

[41] Letter written by Secretary of the Interior Douglas McKay on November 30, 1955, to Oliver La Farge, President of the Association on American Indian Affairs.

[42] "The American Indian, Federal Citizen and State Citizen," remarks by George W. Abbott, the Solicitor, Department of the Interior, before the Committee on Indian Law of the Federal Bar Association, meeting in the California Room of the Hotel Statler, Washington, D. C., September 26, 1959.

[43] Ibid.

[44] Address by William B. Benge, Chief, Branch of Law and Order, Bureau of Indian Affairs, Department of the Interior, before the Federal Bar Association, Indian Law Committee, September 26, 1959.

[45] Lawrence E. Lindley, "Why Indians Need Land," The Christian Century, Vol. LXXIV (Nov. 6, 1957), p. 1317.

[46] Oliver La Farge, "Annual Report," Indian Affairs, No. 26 (May, 1958) p. 2.

[47] Ibid., p. 3.

[48] Ibid.

[49] "Statement by Commissioner of Indian Affairs Glenn L. Emmons on Policy Governing Sales of Individually-owned Indian Lands, memorandum of the United States Department of the Interior, Bureau of Indian Affairs, dated May 12, 1958, p. 1.

[50] Ibid., p. 2.

[51] Task Force Report, op. cit., p. 39.

[52] Congressional Record, op. cit., Vol. CII (July 18, 1956) p. 13253. Remarks by Senator Langer.

[53] Ibid., Vol. CIV (April 16, 1958).

[54] "The War Against Poverty," op. cit.

IX. ALASKAN NATIVE AFFAIRS

A. Background

The policies of the United States government in respect to the Indian natives of Alaska have not differed greatly from those already outlined for Indians generally in continental United States.

The Task Force on Indian Affairs in its report published in 1961 made brief reference to Alaska, although its comments were gathered from questionnaires circulated among the residents of twenty Alaskan native villages and from interviews with Bureau personnel rather than gathered from first-hand sources. The problems which the task force report brought out indicate some problem areas which are unique to Alaska:[1]

(1) There is generally a lack of year-round employment.

(2) There are problems in the attempt to provide medical care, due largely to the dispersal of the population and to the long distances between villages.

(3) There are difficulties in the attempt to provide adequate educational opportunities. Where there are public schools the Bureau by agreement no longer operates schools, but since many of the villages are too small to justify more than a grade school, high school education is not readily available.

(4) There is a vexing problem resulting from the efforts of federal officials to enforce the provisions of the migratory bird treaty in areas where hunting and fishing out of season have been common practices because game and fish are necessary items in the diet of these people.

(5) There is a need to expand the reindeer herds.

When the Task Force on Alaskan Native Affairs began its survey, its members were aware that problems of transportation and communication still plague America's largest state.

Alaska is the only state with an indigenous population which is racially distinct from the American Indian. Eskimos, numbering about 23,000, are largely concentrated in the western half of Alaska's main land body. Although exposed to wage work in one form or another, they depend principally upon hunting and fishing for subsistence.

The Aleuts, who probably do not exceed 5,000 in number, live along the Alaska Peninsula and the islands of the Aleutian chain. They have largely mingled with the white population, particularly those of Russian descent, and are no longer a full-blood people. Because of this their standard of living is generally higher than that of the Eskimos.

The third group, numbering around 5,000, are known as Athapascans. They are found primarily along the Yukon River and in the upper Kenai Peninsula. This area is subject to warm summer temperatures and very cold winter temperatures and is therefore extremely inhospitable. Instead of cultivating the rich soil during the short summer growing season, the Athapascans subsist by hunting and fishing. Their area is rich in minerals and, as a result of this, became intensely exposed to white culture during the 28-year period between 1890 and 1918 when mining operations were at their peak. At the present time hunting, fishing, and trapping are still practiced; but these pursuits are supplemented to a considerable extent by seasonal wage work and welfare.

Serious unemployment is characteristic of many of the Indians who have left their villages and removed to Nome, Juneau, Fairbanks, and Anchorage. These communities provide a heavy proportion of the welfare cases handled by the Bureau and the state.

Both natives and nonnatives of Alaska emphasize their great desire to have a completely integrated society, yet in terms of both culture and social status, the bulk of the native population is separated by a sizeable gulf from the nonnative.

B. Education

The role of the Bureau of Indian Affairs in the Indian education business in Alaska may be demonstrated by the fact that during the fiscal year 1962 it financed and operated 81 schools, completely subsidized 22 others which were operated by the state, and provided some financial help to five more at a cost of $6,000,000.

During the school year 1961-62, 56 per cent of the native children of school age were enrolled in public schools. Like Indian children in most parts of the United States, native children in

Alaska lag behind the general population in educational attainment. In 1960 only 1,832 out of 5,365 native children between the ages of 14 and 19 were enrolled in high school. Of this group an additional 1,941 were still attending elementary school and 1,595 were not in school at all. At the present time the only high school the Bureau operates in Alaska is the Mt. Edgecumbe Boarding School. Both the Bureau and the state have recognized the need for making a complete program of elementary education available to all native children and for increasing the opportunities for these children to attend high schools.

The task force report recommended the following points be given careful consideration:[2]

(1) The urgent need for making available to all native children a complete elementary education.

(2) The immediate need for the Bureau and the state of Alaska to undertake a program for the establishment of a system of regional high schools to serve the natives of the villages which are too small to merit their own schools.

(3) The need for transferring the administrative responsibility for educating native children to the state of Alaska.

(4) The importance of continuing to provide aids to native high school graduates desiring to avail themselves of higher education.

(5) The need for a continuing program of vocational training which will realistically take into account the availability of job opportunities in Alaska and elsewhere.

(6) The need for a greatly expanded program of adult education in the villages.

(7) The need for integrating the schools more completely into the life of native villages.

(8) The importance of a well-conceived orientation program for teachers going to assignments in remote native communities.

As the result of the task force recommendations, accelerated plans for the construction and major improvement of new and expanded elementary school buildings and utilities were started. Funds were appropriated for the building of three new high schools, and a teacher-directed correspondence program was made available to high-school-age students and adult natives in isolated areas.

C. Welfare and Employment Assistance

Since 1958, the Bureau of Indian Affairs has been allocating more than $1 million annually for its welfare services to Alaskan natives. In the past, this money has served two purposes primarily: general assistance and child welfare.

Much of the Bureau's child welfare assistance goes to care for youngsters who are neglected, abused, or abandoned.

At the present time the state administers a rural development program which is, in fact, a public works program for the native villages. Sums are advanced communities to fund their rural development projects. It is apparent that the men considered it far more dignified to assist with these public works than to receive welfare payments.

The recommendations which the task force made in the provision of welfare and employment assistance were as follows:[3]

(1) The need for a coordinated effort in administering these programs.

(2) The need for the Bureau to aid the state in its rural development program or to establish a similar program of its own, as an alternative to welfare payments.

(3) The continuing need for an adequate program of relocation services, plus the need for a greatly increased program of training.

(4) The urgency of establishing a much more elaborate program of adult education to general community development.

(5) The continuing need for the Bureau and the state to work together in providing welfare services to native children.

D. Hunting and Fishing

Although modern technology has, indeed, improved the efficiency of the native fisherman and hunter, this technology has not necessarily made him less dependent upon wild game and fish. Furthermore, without it, he might be unable to secure sufficient food.

Alaskan officials have to some degree recognized the needs of the natives and have provided for a subsistence hunting, trapping, and sports fishing license which is available for 25¢ to the head of a family who can show

(1) that he is indigent and is or has been dependent upon state or federal welfare assistance,

(2) that he had an annual income of less than $800 for the year preceding the application, or

(3) that he has been historically dependent upon fish and game for subsistence.

The subject of the Migratory Bird Treaty of 1916 received more attention from the natives than any other issue. This agreement prohibits the taking of many kinds of waterfowl in Alaska between March 10 and September 1, the season when such birds are most plentiful in the Eskimo country. The spring months are starvation months in some of the Eskimo villages, and wildfowl represent about the only fresh meat available.

There were charges of indiscriminate walrus slaughter, but the Eskimos pointed to the polar bear hunting by airplane which they maintained was seriously depleting their numbers.

The task force offered the following suggestions in developing programs to help solve the hunting and fishing problems of the Alaskan native:[4]

(1) The need for the state to set up a more satisfactory program of licensing and to establish seasons and bag limits which will take into greater account subsistence hunting and fishing needs.

(2) The urgent need for a re-examination of the terms of the 1916 Migratory Bird Treaty to determine whether relief for the Alaskan natives can be obtained administratively or whether the Department of the Interior should seek to have the treaty amended.

(3) Consideration should be given to making sure that

Alaskan natives are represented on the Alaska State Board of Fish and Game and on the local district advisory boards.

(4) The importance of a combined study by the Alaska Fish and Game Department and the U. S. Fish and Wildlife Service of the effects of polar bear hunting by airplane and of walrus ivory hunting on conservation of these animals.

E. Health

In the general area of health, the task force received an encouragingly small number of complaints about the services being supplied at present. It would seem to point to the fact that the Public Health Service is doing an excellent job of caring for the health of the natives.

The task force suggested that special attention be paid to the two following items:[5]

(1) The need for disseminating more information to the native villages concerning the sanitation program.

(2) The desirability of combining this program, or supplementing it, with such others as the state's Rural Development Program, the Community Facilities Program, and the new Public Works Acceleration Program.

F. Economic Development

The original policy of federal officials was to encourage Eskimos to establish their own herds of reindeer. Loans from the main herd were made to individuals on a repayment basis, and apprentice herders received live deer instead of cash wages in order to enable them to go into business for themselves. As a result of the confusion about ownership, federal officials in 1918 turned away from the previous policy of encouraging private ownership and began to urge the development of community herds. During the middle and late 1940's the policy was again changed and privately owned herds, each restricted to a natural range area, were encouraged. In general this is the policy still being followed.

The "Reindeer Act" of 1937 provided for federal purchase of the reindeer owned by nonnatives and forbade future nonnative ownership.

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Insofar as arts and crafts are concerned, testimony at many of the hearings indicated that production of these items has decreased, perhaps because the price which they get does not compensate them adequately.

The arts and crafts program appeared to be fairly healthy in some of the Eskimo villages and among the Indians of southeast Alaska who have the greatest access to help from the Arts and Crafts Board.

During most of the past 20 years the Bureau of Indian Affairs has had an extensive loan program in Alaska, much of which has been directed toward purchase of boats and fishing equipment by the native fishermen of southeastern Alaska and the Bristol Bay area.

Tanning and processing hides is another potential industry. Under present circumstances most of the natives seem to be selling their hides in raw form and then buying back the processed skins for use in making articles of personal clothing and for sale.

The extensive mineral deposits in Alaska are a potential source of income for Alaskan natives, either as owners of the property upon which minerals are found or as employees of the mining companies.

During the past few years a far greater emphasis has been placed on economic development by the Bureau of Indian Affairs which will doubtlessly produce benefits for native Alaskans.

The task force called attention to the following factors which should be emphasized in planning programs of economic development for Alaskan communities:[6]

(1) The need for classifying these communities in terms of their economic needs and development potential.

(2) Recognition of the fact that for some of the native villages a kind of "peace corps" program may be the only realistic approach to improving the economy.

G. The Land Problem

While recognizing a different status for the native people than for the remainder of the population, the 1867 treaty by which Alaska was acquired did nothing to define the entitlement of the natives to the lands which they were using and occupying. In the Organic Act of 1884, Congress included natives with other early inhabitants and mineral claimants, pointing out that "the Indians or other persons . . . shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them." Unfortunately, it did not provide a means by which they might acquire title to these lands.

During the 78 years which have elapsed since the Organic Act of 1884, Congress has largely sidestepped the issue of aboriginal land claims in Alaska. It most recently did so in the Alaska Statehood Act of 1958.

The task force found the Indians, Eskimos, and Aleuts generally opposed to having "reservations" (in the sense that the term is employed in the lower 48 states) established for their use and occupancy. Many felt that Indians residing on reservations do not have the same citizenship privileges and the same freedom of movement as other Americans.

While Congress has not acted generally to settle the issue of aboriginal land claims in Alaska, it has brought forth two pieces of legislation to provide individual natives special opportunities to acquire title to small tracts which they use and occupy.

The state insists that it does not intend to seek title to lands which the natives are clearly using or occupying, but nominations have already brought protests. The Alaska Director of the Bureau of Land Management dismissed these protests on the basis of his lack of authority to determine the validity of aboriginal title.

The maximum effort ever made by the Bureau of Indian Affairs to secure title for native claimants came during the period of the 1930's and 1940's, primarily under the administration of John Collier.

It should be emphasized that the Indians, Eskimos, and Aleuts are still occupying or using the lands upon which their homes are located and over which they hunt and fish. As a consequence of this fact, few Alaskan native groups now have cases pending before the Indian Claims Commission.

The task force recommendations connected with the land question in Alaska were as follows:[7]

(1) The need for more effective implementation of the existing legislation directed toward conveying land to individual natives.

(2) The need for authority to lease and otherwise develop for the benefit of the natives some of those lands already reserved for them and to extend this authority to future withdrawals for their benefit.

(3) The need for the state and the federal government to designate subsistence-use areas within whose boundaries the natives and other persons depending upon subsistence hunting, fishing, and berry picking would have a continuing, privileged claim to the harvest of these natural products.

(4) The need for the Congress to elucidate the aboriginal land rights of the natives and if necessary to establish a forum in which their claims can be heard.

H. Credit Operations

While recognizing the desirability of making credit available for economic development operations throughout Alaska, the task force was largely concerned with the credit program as it relates to the cannery and boat loans. The following problem areas are cited:[8]

(1) The need for a study of the cannery and fishing situation to determine the feasibility of continuing the native canneries.

(2) The need for maintaining fish production if the native canneries are to continue operation.

(3) The need for developing a program for cannery consolidation.

(4) The need for much closer working relations between the Bureau and the village councils.

(5) The need for decentralization in the management of the cannery program.

(6) The need for extending the native store program into

additional villages.

(7) The need for making the program of boat loans more generally available throughout the Bristol Bay area where the fish runs are greater and more dependable than in southeast Alaska.

I. Village Problems

In commenting on those problems affecting native villages, the task force made the following recommendations:[9]

(1) The need for establishing village government consistent with the system of municipal organization found through the state.

(2) The desirability of providing for state-licensed business organizations in the native communities as an alternative to the granting of federal charters.

Housing conditions in almost all of the native communities were deplorable. The task force was of the opinion that the Bureau of Indian Affairs should provide information concerning the present state of native housing and should serve as a liaison between officials of the various housing agencies and the native communities.

J. Summary

We are told that since the report was submitted in December of 1962 some of the suggestions have already been carried out and that the foundation work for others was laid in the fiscal year 1963.[10] Because little time has elapsed since the report was submitted, there are few official declarations on the progress being made with the Alaskan natives at the present time. The land problem which has been so vexing in Indian relations within the continental United States has still to be faced in Alaska. Communication and transportation problems will not easily be overcome. As long as the natives are permitted to hunt and fish in their accustomed manner, they will have ample food supply; however, exploitation by outside interests and limiting regulations have already sprung up. The desire of Alaskan natives to integrate with the white population must be kept alive while the gap between the two groups is narrowed by increased educational opportunities for the natives. Such would seem to be the objectives of the Bureau of Indian Affairs in Alaska at the present time.

FOOTNOTES

IX

[1] Report to the Secretary of the Interior by the Task Force on Indian Affairs. July 10, 1961, pp. 72-75.

[2] Report to the Secretary of the Interior by the Task Force on Alaskan Native Affairs. December 28, 1962, pp. 12-19.

[3] Ibid., pp. 24-27.

[4] Ibid., pp. 34-38.

[5] Ibid., pp. 42-43.

[6] Ibid., pp. 53-54.

[7] Ibid., pp. 67-71.

[8] Ibid., pp. 78-82.

[9] Ibid., pp. 86-87.

[10] Annual Report. The Secretary of the Interior (Washington, D. C., Government Printing Office), 1963, pp. 39-44.